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Item 5 of the provisional agenda

CONSIDERATION OF ISSUES RELATING TO THE PROTECTION AND PROMOTION OF HUMAN RIGHTS, INCLUDING THE IMPLEMENTATION OF INTERNATIONAL AND REGIONAL HUMAN RIGHTS INSTRUMENTS

Regional human rights instruments and institutions

Report of the Secretary-General

1. It may be recalled that the concern of the United Nations with the promotion and protection of human rights stems directly from the preamble of the Universal Declaration of Human Rights that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world". Furthermore, the Universal Declaration of Human Rights states "All human beings are born free and equal in dignity and rights. ... Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". The international community thus accepted an obligation to establish guarantees for human rights and confirmed in the Universal Declaration its commitment to the promotion and protection of human rights ideals shared by many political, social, cultural and religious traditions.

2. Intergovernmental and regional arrangements for the promotion and protection of human rights and fundamental freedoms exist in America, in Europe and in Africa. The annex to this report gives an overview of these arrangements and the relevant institutions.

3. The Inter-American system of human rights which is closely linked with the Universal Declaration, includes inter alia the right to life, liberty, family, nationality and equality before the law and judicial protection. The

Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have been established as regional institutions for the promotion and protection of human rights and have been accorded specific functions and powers.

4. The institutions established under the European Convention on Human Rights, namely the European Commission on Human Rights and the European Court of Human Rights, have evolved over the years in order to supervise and enforce the rights and freedoms enshrined in the Convention, and the series of additional protocols.

5. An important point in the evolution of regional arrangements for the promotion and protection of human rights was the adoption, in 1981, by the Organization of African Unity of the African Charter on Human and Peoples' Rights. Having been ratified by an absolute majority of States in the region (32 States), the Charter came into force on 21 October 1986. The African Charter includes not only rights but also duties - an approach which though new in international instruments symbolizes the African conception of rights as inseparable from duties. These rights and duties apply to individuals and groups alike. The African Charter also places special emphasis on the rights and duties of the community - the rights to peace, solidarity, a healthy environment and development, priorities inter-linked with Africa's place in the concert of Nations. Beyond the different formulations of rights and the diverse jurisdictions and competencies vested in them, which derive from the specific legal traditions, constitutional framework and social and economic circumstances of each region, there exist certain common parameters, based on the Universal Declaration of Human Rights that govern the operation of existing regional arrangements.

6. For the Asian region, the question of regional institutions for the promotion and protection of human rights has been the subject of continuing consultations. A seminar on national, local and regional arrangements for the promotion and protection of human rights in the Asian region was organized by the United Nations Division of Human Rights, in Colombo from 21 June to 2 July 1982. Among the views expressed at this seminar was the need to take into account the economic, social and political conditions as well as the specific needs of the Asian region; it may be necessary to be both selective and innovative, and to choose those aspects best suited to the region. It was also recalled that the existing regional arrangements had drawn upon the restatement of certain universal norms within the context of a regional instrument. From 7 to 11 May 1990, the Centre for Human Rights, organized in Manila the first Asia-Pacific workshop which examined inter alia the question of regional institutions and arrangements for the promotion and protection of human rights. The workshop emphasized the role played by the Universal Declaration as a source of inspiration for national and international endeavours for the protection and promotion of human rights and fundamental freedoms, the efforts of the international community to help to realize these rights, particularly through the existing United Nations human rights machinery, as well as the importance of constructive and well-informed public opinion for the universal enjoyment of the rights and freedoms enshrined in the various international instruments.

7. Accordingly, should the countries of the Asian region so desire, it should be possible for the Regional Meeting for Asia to recommend to the World Conference to further develop the possibilities of modalities for regional arrangements for the Asian region, taking into account the following considerations:

(a) Encouragement of Asian Member States to establish institutions to promote and protect human rights;

(b) Promotion of the study and dissemination of human rights literature and teaching at the academic level;

(c) Examination of the feasibility of the establishment of appropriate machinery for furthering the principles for the establishment of such a regional mechanism.

8. The Secretary-General also offers the assistance to the United Nations, upon request, to the States of the region in helping to overcome any difficulties towards the establishment of such regional arrangements for the promotion and protection of human rights in the Asian region.

## Annex

## REGIONAL HUMAN RIGHTS INSTRUMENTS AND INSTITUTIONS

### Introduction

1. The present report gives an overview of the principal regional human rights instruments and institutions. It reviews the basic instruments, organs and institutions of the Organization of American States, the Council of Europe and the Organization of African Unity. It also describes the substantive provisions of these instruments in a general manner, but reference should be made to the texts of the instruments for their precise provisions. As the aim of this report is to describe the regional structures and the basic human rights that they promote and protect, specialized regional instruments dealing with particular aspects of human rights are not discussed. 1/

### I. THE ORGANIZATION OF AMERICAN STATES

#### A. Background

2. The Organization of American States traces its origins to the International Union of American Republics, established by the First International Conference of American States in 1890. 2/ The Organization of American States, as such, was established by the Charter of the OAS, which was signed at the Ninth International Conference of American States, Bogota, in April 1948. The OAS Charter entered into force in 1951 and it was amended in 1967 and again in 1985.

3. The principal human rights instruments of the OAS are the 1948 American Declaration of the Rights and Duties of Man and the American Convention on Human Rights, also called "Pact of San José, Costa Rica", of 1969 3/ and these instruments are applied by two key regional human rights institutions, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. Since not all member States of the OAS have ratified the American Convention, the American Declaration continues to be applied to those States by means of the incorporation of the Declaration into the OAS Charter. The Convention establishes the procedures for the operation of the Commission and the Court for matters under the Convention, whereas the provisions of the Statute of the Commission and its regulations govern the procedures of the Commission that are applicable to matters brought against States which are not parties to the Convention.

#### B. Substantive provisions

4. The inter-American system of human rights, with its source in the American Declaration, has much in common with the Universal Declaration on Human Rights. This is to be expected, since the two documents were closely contemporaneous in their drafting and adoption.

5. The inter-American human rights system protects, through the Declaration and the Convention, the rights to life; humane treatment; personal liberty; family; nationality; asylum; fair trial; juridical personality; property; equality before the law and equal protection of the laws; and judicial protection. The Declaration and the Convention also cover numerous freedoms, among which are: freedom from slavery; arbitrary arrest and ex post facto laws; freedom of investigation and opinion; and freedoms of conscience, religion, thought and expression, assembly and association, movement and residence.

6. The Convention does not itself guarantee economic, social or cultural rights, although it does call, in article 26, for measures to achieve the progressive realization of standards in these fields that are set forth in the OAS Charter.

## C. Institutions

### 1. The Inter-American Commission on Human Rights

7. Provision was made for the creation of the Inter-American Commission on Human Rights in 1959, and the Commission began to function in 1960. 4/ Its mandate is to "promote the observance and protection of human rights and to serve as a consultative organ of the Organization in these matters" (Charter of the OAS, art. 112). It is composed of seven members who are elected in their personal capacity for a term of four years by all member States of the OAS. The Commission has authority, by virtue of the American Convention on Human Rights, to receive petitions from any person, group of persons or non-governmental organizations alleging that any State party to the Convention has violated the Convention (art. 44). Moreover, provided the State against which a complaint is made has accepted the competence of the Commission, it has authority to examine inter-State complaints (art. 45); nine States (Argentina, Chile, Colombia, Costa Rica, Ecuador, Jamaica, Peru, Uruguay and Venezuela) have accepted the competence of the Commission to deal with inter-State complaints.

### 2. The Inter-American Court of Human Rights

8. The Inter-American Court of Human Rights was established by the entry into force of the American Convention on Human Rights. It consists of seven judges, elected by the States parties to the Convention, to serve in their individual capacities for a six year term. At the date of the present Report, 23 States were party to the Convention and 14 of those States had, under article 62, accepted the jurisdiction of the Court on all matters relating to the interpretation and application of the Convention (Argentina, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Nicaragua, Panama,

Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela). Only the States parties and the Commission may submit a case to the Court for adjudication; individuals have no standing to do so. Judgments of the Court in the exercise of its adjudicatory (or "contentious") jurisdiction are binding on the parties to the case.

## II. THE COUNCIL OF EUROPE

### The European Convention on Human Rights

#### 1. Background

9. The European Convention for the Protection of Human Rights and Fundamental Freedoms (also called "European Convention on Human Rights") can be seen as a response to the human rights violations of World War II. Establishing an international institution to supervise the protection of human rights at the national level was seen as a means to preclude any resurgence of totalitarianism. In September 1949, when the issue of international protection of human rights attracted great attention, the Consultative Assembly of the Council of Europe (nowadays called the Parliamentary Assembly) adopted a report by the Legal Committee, which proposed to guarantee basic rights on the European level through an international convention. On the basis of this report government experts prepared a draft text in the spring of 1950, which as revised was approved in August 1950, by the Committee of Ministers.

10. As of the date of this report there are 25 States parties to the Convention. The European Convention has been modified on a number of occasions. As many as 10 protocols to the Convention have been adopted over the years to clarify certain aspects of the practice and procedure of the human rights institutions of the Council of Europe and to expand and adjust certain substantive provisions of the Convention in light of changing circumstances. There are three institutions which are responsible for the supervision, and ultimately, enforcement of the rights and freedoms laid down in the Convention, the European Commission on Human Rights, the European Court of Human Rights and the Committee of Ministers.

#### 2. Institutions

##### (a) The European Commission on Human Rights

11. The powers and functions of the European Commission on Human Rights are determined by articles 20 to 32 of the Convention and by Protocols 3, 5 and 8 thereto. It consists of a number of members equal to the number of States parties to the Convention. Members of the Commission are elected by the Committee of Ministers of the Council of Europe to serve in their individual capacities for a term of six years.

12. Pursuant to article 24, any State party may refer an alleged breach of the Convention by another State party to the Commission, this implies that a State party may allege breach of the rights of nationals of other States parties before the Commission. As well, the Commission may receive petitions from any person, non-governmental organization or group of individuals claiming to be the victim of a violation of the Convention by a State party (art. 25). This authority is subject to the conditions that the State concerned must have expressly recognized the competence of the Commission to examine such petitions and that domestic remedies must have been exhausted, according to the generally recognized rules of international law (art. 26).

13. All States party to the Convention have recognized the competence of the Commission to examine individual petitions.

(b) The European Court of Human Rights

14. The jurisdiction of the European Court of Human Rights is defined in articles 38 to 54 of the Convention. It consists of the same number of judges as member States of the Council of Europe. 5/ A judge need not be a national of the member State that nominates him or her, but no two judges may be of the same nationality. The judges are elected by the Parliamentary Assembly of the Council of Europe, to serve in their personal capacity for a term of nine years. Pursuant to article 46, States may declare that they recognize the compulsory jurisdiction of the Court to consider cases that are referred to it either by a State party or by the Commission. All States parties to the Convention of Europe except the two most recent members have recognized the jurisdiction of the Court.

15. In relation to a State that has made such a declaration, both inter-State complaints under article 24 and individual petitions may be referred to the European Court, within three months of transmission of a report by the Commission to the Committee of Ministers. Only a State concerned (i.e. the State which referred the case to the Commission, the State whose national is the victim of the alleged violation and the State against which the complaint was made) or the Commission may refer a matter to the Court. Even if dissatisfied with the Commission's disposition of the matter, an individual has no independent right to submit the case to the Court for consideration. The parties before the Court are the Commission and the State(s) concerned. An individual has no formal standing before the Court, although as confirmed by the rules of procedure, the Court will invite the applicant's counsel to represent or assist the applicant before the Court. 6/

16. In proceedings before the Court, the report of the Commission is considered and given weight, but the Court is not bound by any aspect of the report. The Court not only has jurisdiction to review the Commission's report, but may also assess and make its own findings of fact. In reaching its decisions, the Court may not be unanimous; separate opinions may be expressed by individual judges. The judgment of the Court is final and it

may, pursuant to article 50 of the Convention, afford "just satisfaction" to the injured party, if it finds a violation of the Convention. The States parties agree to abide by a decision of the Court.

17. Pursuant to the Second Protocol to the Convention, the European Court was endowed with competence to render advisory opinions. At the request of the Committee of Ministers, the Court may give opinions on legal questions concerning the interpretation of the Convention and its Protocols. In the exercise of its jurisdiction up to September 1992, the Court has delivered 363 judgments under the Convention. An additional 65 proceedings are pending.

### (c) The Committee of Ministers

18. The Committee of Ministers is established by the Council of Europe as an organ of the Council, with one member from each Member State. Its functions in relation to the European Convention on Human Rights are essentially supervisory and executive. As indicated, the Commission transmits to the Committee of Ministers a report on any case found to be admissible that has not been resolved by friendly settlement procedures (art. 31). In the event that the matter is not thereafter referred to the Court, the Committee of Ministers decides whether a violation of the Convention is established and if so, it prescribes a period for the State concerned to take any measures required. Where a case has been referred to the Court and it finds a violation of the Convention, its decision is transmitted to the Committee of Ministers which is charged by article 54 of the Convention with supervising the execution of the decision.

## III. THE ORGANIZATION OF AFRICAN UNITY

### The African Charter on Human and Peoples' Rights

#### 1. Background

19. The idea of developing an African convention on human rights was first raised at a symposium of African jurists organized by the International Commission of Jurists (ICJ) in Lagos in 1961. 7/ It was developed in the following years with the support of the ICJ in a number of conferences. Then, at its 34th session, the Commission on Human Rights adopted resolution 24 (XXXIV) of 8 March 1978, in which it requested the Secretary-General to take appropriate steps to give the Organization of African Unity, if it so requests, such assistance as it may require in facilitating the establishment of a regional commission on human rights for Africa. Pursuant to this resolution, a United Nations seminar held in Monrovia from 10-21 September 1979 adopted a number of concrete proposals relating to the establishment of such a commission.

20. Also in Monrovia, in June 1979, the Summit of Heads of State and Government of the Organization of African Unity (OAU) decided to convene a meeting of high-level African experts to draw up a preliminary draft of a convention which would provide for the promotion and protection of human rights in Africa and the establishment of an African body for that purpose.

21. The African Charter on Human and Peoples' Rights was adopted at the Nairobi Summit of Heads of State and Government of the OAU in June 1981. The Charter came into force in October 1986, after having been ratified by a majority of States members of the OAU. 8/ The Charter is notable for its statement of rights and the duties of members of society, the organization and operation of its institutions, and also for its articulation of the rights of peoples, which is unparalleled in other human rights conventions.

### 2. Substantive provisions

22. The African Charter enshrines three categories of substantive provisions and States parties undertake by article 1 to adopt legislative or other measures to give effect to these rights, duties and freedoms. Articles 2 to 18 lay down a series of rights and freedoms of the individual. The rights include non-discrimination, equality before the law and equal protection of the law (arts. 2 and 3); the inviolability of the human being, respect for life and personal integrity (art. 4); the rights to respect of dignity, recognization of legal status and the prohibition of the exploitation of man, including slavery and torture (art. 5). Important rights such as liberty and security of the person and freedom from arbitrary arrest or detention are set out in article 6. The right to have one's cause heard (including the right to appeal against violations of fundamental rights, the presumption of innocence, the rights to counsel, trial within a reasonable time and non-retroactivity of penal law) is also covered in article 7.

23. The Charter also extends to freedom of conscience and religion (art. 8), the right to information and to express and disseminate opinions (art. 9) and to the freedoms of association and assembly (arts. 10 and 11) and the right to freedom of movement, including asylum and the prohibition of mass expulsions (art. 12). It also guarantees such important matters as the right to participate in government, access to public service and public property (art. 13) and the rights to property (art. 14), to work, including the right to equal pay for equal work (art. 15), the right to enjoy the best attainable health (art. 16) and the right to education (art. 17). The Charter also makes provision for the protection of the family and the right of the aged and the disabled to special measures of protection, along with a State duty to assist the family, to ensure the elimination of discrimination against women and the protection of women and children (art. 18).

24. The Charter sets out rights of peoples in articles 19 to 26. These provisions include such principles as the equality of peoples and the rights of peoples to existence and self-determination (arts. 19 and 20). The Charter

stipulates the right of peoples to freely dispose of their wealth and natural resources, including the right of a dispossessed people to the lawful recovery of its property (art. 21). Under article 22, peoples have the right to economic, social and cultural development and States have the duty to ensure the exercise of the right to development. The rights of peoples to peace and security and to a general satisfactory environment favourable to their development are set out in articles 23 and 24. In article 25, States are subject to a duty to promote and to ensure, through education and other means, respect for the rights and freedoms in the Charter. They are also bound by a duty to guarantee the independence of the Courts and to allow the establishment of national institutions for the promotion and protection of rights and freedoms (art. 26).

25. Chapter II of the African Charter prescribes certain duties of the individual towards the family and society, the State and other recognized communities, including the international community (art. 27). It states the duty to respect and to consider fellow beings without discrimination (art. 28). Other specific provisions include the duty to preserve the harmonious development of the family and to respect and, in case of need, to maintain parents; to serve the national community and not to compromise the security of the State; to preserve and strengthen social and national solidarity and the independence and territorial integrity of the country through contributing to its defence. Individuals also have the duty to work and to pay taxes, to preserve African cultural values and to contribute to the promotion of African unity (art. 29).

### 3. Institutions

#### (a) The African Commission on Human and Peoples' Rights

26. The African Commission 9/ is composed of 11 members, elected for a term of six years in their personal capacities by the Assembly of Heads of State and Government of the OAU (arts. 31, 33 and 36). The principal responsibilities of the Commission are the promotion and the protection of human and peoples' rights in Africa.

27. The Commission has the function of ensuring the protection of human and peoples' rights under the conditions established by the Charter. It may interpret provisions of the Charter on the request of a State party, an OAU institution, or another recognized African organization 10/ and it is to perform other tasks entrusted to it by the Assembly. In addition, by article 62 of the Charter, States parties are required to submit periodic national reports on the legislative and other measures taken to give effect to the rights and freedoms guaranteed by the Charter. The Commission has the important role of examining these reports in a dialogue with representatives of the States concerned.

28. There are two forms of communication procedure under the aegis of the Commission. The actual procedure for the examination of communications is set out in the Charter and elaborated in greater detail in the rules of procedure of the Commission.

29. Articles 47 to 54 of the Charter establish an inter-State communication mechanism. All States parties are subject to these procedures by virtue of their adherence to the Charter. A violation of the provisions of the Charter may be alleged by one State against another pursuant to article 47 of the Charter. If that communication has not been settled within three months, either of the States concerned may submit the matter to the Commission under article 48. The Commission may also be directly seized of a communication by a State party under article 49, without the delay for settlement efforts that is foreseen by article 47. After satisfying itself as to the exhaustion of local remedies, after considering the information obtained from the parties (including any written or oral representations) or from other sources and after having sought an amical solution, the Commission shall prepare a report on the facts and its findings and may make recommendations (arts. 52, 53 and 53). The report of the Commission is sent to the States concerned and communicated to the Assembly of Heads of State and Government.

30. Articles 55 to 59 of the Charter provide for the consideration of other communications which may be submitted to the Commission. The rules of procedure of the Commission clarify that communications may be submitted by the victim of an alleged violation by a State party of a right enunciated in the Charter, or in the victim's name, if he or she is unable to submit it. Communications may also be made by an individual or an organization alleging serious or massive cases, subject to the provision of proof in support of the allegation (rule 114). A series of criteria are established by article 56 of the Charter to determine the communications which are to be considered. They include such matters as the exhaustion of local remedies, compatibility with the African Charter of Human and Peoples' Rights and the OAU Charter.

(b) The Assembly of Heads of State and Government of the OAU

31. The outcome of the Commission's procedures is, in short, the transmission of a report to the Assembly for action. The Assembly is thus the second body for the protection of the rights and freedoms laid out in the African Charter. It alone has the authority to take decisions or other specific action, but any such action would be taken under the conditions established by the Charter of the Organization of African Unity. To date no such action has been called for, as no case has been transmitted to the Assembly by the Commission.

Notes

1/ Examples of such instruments are the Inter-American Convention to Prevent and Punish Torture, the Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, the Additional Protocol to the American Convention on Human Rights to Abolish the Death Penalty, the European Social Charter, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the African Charter on the Rights and Welfare of the Child and the OAU Convention concerning Specific Aspects of Refugee Problems.

2/ An historical overview of the Inter-American system of human rights is found in the Report submitted by the Organization of American States to the International Conference on Human Rights, A/CONF.32/L.10 (1968).

3/ The American Declaration of the Rights and Duties of Man was adopted by the Ninth International Conference of American States in April 1948, along with the adoption of the Charter of the OAS itself. The American Convention on Human Rights was adopted by the Inter-American Conference on Protection of Human Rights in November 1969.

4/ The Commission was created pursuant to resolution VI of the Fifth Meeting of Consultation of Ministers of Foreign Affairs, Santiago, 1959 and the Statute of the Commission was approved by the then Council of the OAS on 25 May 1960.

5/ The Court consists of 26 judges at the date of this report with the post of one judge currently vacant in respect of one further country.

6/ See Rule 30 of the Court's Rules of Procedure. Protocol No. 9 which is not yet in force will enable individuals too to refer a case to the Court after it has been examined by the Commission.

7/ For further information about the origin of the African Charter, see: Etienne Richard Mbaya, "La Charte africaine en tant que mécanisme de protection des droits de l'homme", in: Bernhard/Jolowicz (eds.), International Enforcement of Human Rights, Berlin, 1987, pp. 77-97.

8/ As of 31 June 1991, the African Charter had been ratified by 41 of the 51 member States of the OAU. Ivory Coast, Djibouti, Ethiopia, Kenya, Lesotho, Madagascar, Mauritius, Namibia, the Seychelles and Swaziland have not yet become party to the Charter.

9/ For further information about the Commission, see: Gittleman, Richard, "The African Commission on Human and Peoples' Rights: Prospects and Procedures", in: Guide to International Human Rights Practice, Hurst Hannum (ed.), Philadelphia, 1984, pp. 153-162.

10/ This power to request interpretations of the Charter is wider than under other regional instruments; under the inter-American system only States parties or OAS organs may seek interpretations, whereas under the second Protocol to the European Convention only the Council of Ministers may request advisory opinions.

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# CONSIDERATION OF ISSUES RELATING TO THE OBJECTIVES OF THE WORLD CONFERENCE OF PARTICULAR IMPORTANCE TO THE REGION: A REGIONAL PERSPECTIVE

## Note by the Secretariat

## Second Asia-Pacific Workshop on Human Rights Issues, Jakarta, 26-28 January 1993

The attention of the Regional Meeting for Asia is drawn to the draft report */ of the Second Asia-Pacific Workshop on Human Rights Issues, held in Jakarta from 26 to 28 January 1993.

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*/ The attached unedited draft (English version only) is made available at this stage to facilitate the deliberations of the Regional Meeting. The final edited version will be circulated in due course.

GE.93-12274

Annex

# UNITED NATIONS

## CENTRE FOR HUMAN RIGHTS

## DRAFT REPORT

(Unedited version)

## SECOND REGIONAL WORKSHOP FOR THE ASIA-PACIFIC ON HUMAN RIGHTS ISSUES

## JAKARTA, INDONESIA
## 26-28 JANUARY 1993

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**ASIA-PACIFIC WORKSHOP ON HUMAN RIGHTS ISSUES**
**JAKARTA, INDONESIA**
**26-28 JANUARY 1993**

**CHAIRMAN'S CONCLUDING REMARKS**

For the past three days this Asia-Pacific Workshop has been engaged in a frank discussion and exchange of views on a number of important human rights issues emerging from our respective national experiences. The Asia-Pacific region is one of rich political, economic, social and cultural diversity. It is both natural and appropriate, therefore, that our discussions reflect this diversity. While there were different nuances in the views expressed, it is apparent that we have reached broad understanding on several important principles relating to the subjects discussed.

While human rights principles are universal and standards have been negotiated and accepted at the international level, responsibility for the implementation of these norms primarily rests at the state level. Nevertheless it must be recognized that procedures and machinery for implementation will vary from state to state.

The United Nations Charter was, in many ways, the very first international human rights agreement. It is interesting and instructive to note that human rights are dealt with in the Charter under the heading of "International Cooperation". Accordingly, the promotion and protection of human rights should be pursued in a spirit of cooperation and mutual respect and in a non-confrontation way.

In accordance with the important principle of indivisibility, human rights issues should be approached in an objective and balanced fashion. Commitment to the principle of indivisibility will promote international cooperation and avoid unproductive confrontation. In the same way, both the individual and the collective aspects of human rights must be considered concurrently and in a balanced manner.

The international system which has been developed to monitor implementation of human rights instruments should approach its task in a creative, constructive way by focusing on both positive and negative aspects of states' human rights performance and by according equal importance to civil and political rights and economic, social and cultural rights.

In addition, member States and the United Nations human rights machinery should cooperate to give full effect to those provisions of international human rights instruments providing for technical advice and assistance if a State Party requests it.

National human rights institutions have an important role to play in protecting against human rights violations as well as developing promotional and educational activities (such as educational programmes for the general public and training programmes for law enforcement personnel, both civilian and military, and government officials) aimed at ensuring that human rights are enjoyed by everyone. National institutions should be considered in the context of the developmental process of a country. Within this context, countries wishing to create such institutions should be able to benefit from the United Nations' programme of advisory services and technical assistance in the field of human rights.

Matters which should be taken into account in establishing regional mechanisms in Asia and the Pacific include the geographical complexity, diversity and vastness of the countries which form the region as well as their different historical background and levels of political stability, economic prosperity and social development. Progress has already been made at a sub-regional level among a number of countries and national institutions. Within this context a number of protective and promotional activities are under way in ASEAN regarding vulnerable groups such as women and children and the relationship between development and human rights. Discussions at regional meetings are a valuable forum to enable governments and national institutions to exchange experiences and strengthen support for the promotion and protection of human rights.

The Second Asia-Pacific Workshop has been positive and constructive in promoting better and deeper understanding among the countries of the region. This example should be built on by other conferences and consultations, including workshops, in the Asia-Pacific region and other regions of the world. A step by step strategy should be adopted in establishing regional machinery for the promotion and protection of human rights. A first step could be the setting up of sub-regional machinery for human rights information dissemination. This could be followed, for example, by the establishing of an Asia Forum which could enhance regional exchange of ideas and experiences aimed at promoting human rights activities. The Forum could be used in order to design at a later stage machinery at sub-regional or regional level for the promotion and protection of human rights.

The World Conference on Human Rights to be held later this year represents a valuable opportunity to focus attention and efforts on important human rights issues including those matters which have been considered by this workshop. If the World Conference is to produce tangible results it will be important that increased resources be provided to the United Nations Centre for Human Rights to ensure that the provision of advisory services and technical assistance, particularly to developing countries which request it, can be provided.

Jakarta, 28 January 1993

**WORKSHOP BACKGROUND**

In its resolution 1992/40 of 28 February 1992, the Commission on Human Rights, recalling that a seminar on regional arrangements for protection and promotion of human rights was to be have been held in Indonesia in late 1991, requested the Secretary-General, to organise, once again, a seminar to discuss this matter in 1992.

In accordance with this resolution, the Second Asia-Pacific Workshop on Human Rights Issues was organised by the United Nations Centre for Human Rights in cooperation with the Government of the Republic of Indonesia under the Centre's programme of Advisory Services and Technical Assistance in the Field of Human Rights.

The central objectives of the workshop were as follows:

(i) to increase awareness among countries of the region of international human rights standards and procedures and of the role of States in implementing human rights norms.

(ii) to inform participants of the mechanisms which are available to assist States in fulfilling their obligations under the various international human rights instruments.

(iii) to promote bilateral cooperation in the field of human rights between countries of the region.

(iv) to foster the development of national human rights institutions in the region

(v) to provide a forum for discussion of questions relating to the establishment of regional arrangements for protection and promotion of human rights.

(vi) to facilitate dialogue between Asia-Pacific nations on the upcoming World Conference on Human Rights

Additional information on specific objectives may be found in the body of the following report.

**OPENING CEREMONY**

The Second Asia-Pacific Regional Conference on Human Rights Issues was officially opened by His Excellency, Mr Soeharto, President of the Republic of Indonesia at a ceremony conducted at the State Palace, Jakarta, on the morning of Tuesday, 26 January 1992.

In his opening address the President expressed the hope that the workshop would serve as an effective forum of discussion to foster an understanding of basic human rights in the Asia-Pacific as well as in the respective countries which comprise this region. The President commented that differences

in living standards have a great effect on national human rights policies and that for this reason, individual countries must, by necessity, take their own steps towards the realisation of human rights for their citizens. He then went on to explain the Indonesian concept of human rights as set forth in its constitution of 1945.

The Indonesian Minister for Foreign Affairs, Mr Ali Alatas also addressed the gathering as did Mr Antoine Blanca, United Nations Under-Secretary-General for Human Rights. Mr Blanca's speech, which focused on the work of the United Nations in the field of human rights as well as the major themes of the Workshop, is reproduced as an annex to this report.

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***Note:*** The Workshop was chaired jointly by Mr Blanca, United Nations Under-Secretary-General for Human Rights, and Mr Wiryono, Director General of Political Affairs of the Indonesian Ministry of Foreign Affairs.

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**WORKSHOP TOPIC ONE:**
**INTERNATIONAL NORMS AND STANDARDS IN THE FIELD OF HUMAN RIGHTS**

***Objective:***

The objective of the first working session was to provide an introductory overview of international human rights norms and standards and, by so doing, to lay the groundwork for future consideration of more specific topics in the field of human rights.

***Presentations:***

The topic was introduced by **Professor Pocar** who gave a short presentation on the development of international human rights machinery which exists to oversee the implementation of the various human rights standards promulgated by or through the United Nations system. Professor Pocar focussed on some of the problems of implementations by drawing on examples from the Human Rights Committee of which he is currently Chairman. This general overview was supplemented by **Mr Agha Shahi**; former Chairman of the Committee on the Elimination of Racism (CERD), who spoke of his work with the Committee within the broader context of United Nations activities in the field of human rights. Mr Shahi drew the audience's attention to the growing problem of racial and ethnic hatred and the resulting need to strengthen United Nations machinery for dealing with these problems.

*Discussion:*

Several representatives addressed the panel on the issue of universality of human rights norms which had been raised by Professor Pocar. The discussion centred on reconciling concepts of universality with the reality of regional variations and cultural specificities. It was pointed out that international human rights standards as set out in the Universal Declaration are universally applicable. The question was raised as to whether the implementation of these standards could be subject to regional or national variations.

Other subjects discussed by participants and members of the panel included the concept of collective rights and the question of which individual rights have a collective dimension; the indivisibility of all human rights; the problem of ratifications and how universal ratification of the major instruments could or should be encouraged; in particular, amongst States of the Asia-Pacific region which has the lowest rate of participation in UN human rights instruments. It was agreed that universal respect for human rights could best be achieved through mutual cooperation and assistance. Constructive dialogue in this regard can most usefully be facilitated through the process of ratification.

## WORKSHOP TOPIC TWO: NATIONAL IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS STANDARDS

*Objective:*

The issue of national implementation of international human rights standards is inextricably linked with several major themes of the workshop. The objective of topic two was therefore to examine and discusss the general aspects of this topic before turning to the more specific subjects of institutions and other arrangements.

*Presentations:*

**Mr Blanca**, in his capacity as co-moderator, opened the session with the important observation that international machinery, no matter how efficient, cannot, of itself guarantee respect for, amd protection of basic human rights. The international implementation process must be complemented by national application of those human rights standards which have been agreed upon by the world community. He pointed out that without a genuine commitment on the part of individual governments, these international standards can never become a reality for those people they are designed to protect. This theme was further developed by **Professor Pocar** who explained that effective implementation means much more than legislating against interference with the exercise of human rights. States

must also act positively by ensuring this freedom to exercise rights through the creation of favourable conditions for their full enjoyment. This necessarily involves the provision of accessible domestic remedies to redress violations if and when they occur.

The topic of national implementation was explored by **Mr Shahi** within the specific context of the Convention on the Elimination of Racial Discrimination and the Committee set up under that treaty. In his presentaion, Mr Shahi raised the problem of massive violations of human rights and the inability of existing United Nations machinery to deal with violations on this scale. He urged all present to view the upcomong World conference as an opportunity to remedy these inadequacies.

The final presentation on this topic was delivered by **Mr Wirajuda** who stressed the importance of adopting a more balanced approach to implentation, one which addresses the positive aspects of a particular states human rights record as well as its failings. In this way, obstacles to the effective implentation of human rights can be identified in a constructive, non-confrontational manner. The imposition of sanctions and conditionalities as a response to violations may well be less effective than assisting in the creation of human rights infrastructures and thereby in the development of a Climate conducive to effective implementation.

*Discussion:*

Much of the discussion on this topic focussed on the difficulties of implementing international standards and the need for assistance in this regard. Several participants referred to the programme of advisory services and technical assistance conducted by the United Nations Centre for Human Rights. It was generally agreed that the positive, constructive process of preventing violations through promotion and education deserved equal attention to that accorded the often negative protection process.

## WORKSHOP TOPIC THREE: NATIONAL INSTITUTIONS FOR THE PROTECTION AND PROMOTION OF HUMAN RIGHTS

*Objective:*

Issues concerning the establishment and development of national human rights institutions formed one of the central themes of the Workshop as part of a broader consideration of the role of states in the implementation of international human rights standards. While national institutions for protection and promotion of human rights remain scarce in the Asia-Pacific region there are currently a number of States which have or are in the process of setting up such institutions. It was hoped that the presentations and

discussions would provide a useful opportunity for the participants to explore this avenue carefully.

*Presentations:*

The panel for discussion of national institutions was composed of **Mr Burdekin**, Human Rights Commissioner of Australia; **Mr Monteiro**, Human Rights Commissioner of the Philippines, and **Ms Mulgan**, Human Rights Commissioner of New Zealand. Each presenter gave an overview of the structure and functioning of the institution in hes or his country including the legal basis for its creation and a history of its development. Presenters then examined specific issues relating to the subject of national institutions from the perspective of their own national experiences.

The topic was considered over three sessions. The first of these was of an introductory nature in which the basic issues of jurisdiction and competence were examined. Session two was devoted to a discussion of the relations between national institutions, the State and other partners including non-governmental organisations active in the field of human rights. Issues of autonomy and independence were also raised in this context. The final session was in the form of a roundtable discussion of the ways in which a national institution could become an effective instrument in protecting and promoting human rights at the domestic level.

*Discussion:*

A number of delegations, including those of India, Indonesia, Sri Lanka and Thailand informed the gathering of steps being taken in their respective countries towards the establishment of national human rights machinery. Other delegations used the discussion period to explain the various means by which their legal and/or administrative systems operate to protect human rights.

Participants took up a number of themes which had been raised by the experts during their presentations. The issue of independence and autonomy was discussed at some length with a number of participants expressing their view on how the impartiality of national institutions can best be secured. Suggestions included fixed terms of appointment for officers, an independent appointment procedure and guaranteed financial resources. The composition of the national institution was also agreed to be vital to ensuring its autonomy and credibility; a broadly based membership is the best way of obtaining widespread community support for the work of the institution.

The question of relations between national institutions, the state and other partners was also discussed at some length. There was general agreement that the support and assistance of

non-governmental human rights organisations is vital as is an open, constructive relationship with other governmental bodies.

With regard to the structure of national institutions, all participating delegations agreed that an individual country's own situation should be considered and that no one model would be universally suitable.

There was also widespread acknowledgement of the important role which national institutions are able to play in the promotion of human rights. A number of delagations ventured the opinion that this educative/promotionary role should be emphasised as it may well be the best or only way human rights can be effectively protected. The importance of cooperation rather than confrontation was also raised in this context.

## WORKSHOP TOPIC 4: ON THE POSSIBILITY OF ESTABLISHING REGIONAL HUMAN RIGHTS MACHINERY / PROMOTING INTER-REGIONAL AND INTRA-REGIONAL COOPERATION IN THE ASIA-PACIFIC

*Objective:*

Asia-Pacific is the only United Nations-defined region without a specific human rights treaty and without some form of region-wide mechanism directed towards the protection and promotion of human rights. The absence of such a regional arrangement has been raised in a number of UN fora, particularly in the General Assembly (resolutions 41/153, 43/140, 45/168 and 47/125) and the Commission on Human Rights (resolutions 1988/73, 1989/50, 1990/71, 1991/28 and 1992/40).

In his opening address, the Under-Secretary-General emphasised that both national and international human rights mechanisms stand to benefit from the collaboration and support which can be provided by regional infrastructures. Inclusion of this topic in the agenda of the workshop provided the opportunity for participants to identify ways in which obstacles to the establishment of a regional system for protection and promotion of human rights could be overcome.

The theme of intra-regional cooperation in the field of human rights was explored over two sessions. The first of these focussed on the possibility of establishing regional machinery including consideration of the problems and prospectas associated with such an initiative. The second session took a broader view of intra-regional cooperation in the field of human rights by incorporating discussion of other avenues including bilateral exchange of information and practical assistance.

*Presentations:*

Both presenters, **Ambassador Fan** and **Mr Lubis** cautioned against ambitious plans to establish regional human rights machinery. Asia-Pacific is not a homogenous area with respect to history, culture, language or political orientation. Models of existing regional arrangements are therefore, because of this lack of any unifying tradition, only of limited usefulness.

Any efforts in this respect should therefore be realistic, taking into account the overall condition and character of the region including its problems of economic under-development. An effective regional arrangement requires high levels of mutual understanding between governments. It was suggested that such understanding could be fostered, at least during these early stages, by the development of sub-regional machinery.

On the related issue of promoting intra-regional cooperation, **Professor Yamazaki** presented a proposal for the establishment of regional or sub-regional machinery for the processing and dissemination of human rights information. This, he explained, could be the first step towards developing a forum within which intra-regional cooperation on human rights issues could be fostered. Professor Yamazaki suggested that the feasability of this proposal could be examined by way of a research project undertaken by the United Nations University.

The promotion of cooperation on human rights issues *between* regions was also examined. Ambassador Fan reiterated earlier comments that each UN-defined region was able to benefit from the knowledge and experience of the others. He urged the states of Asia-Pacific to establish and maintain contacts with others and suggested that any regional machinery established in the Asia-Pacific, could be a useful vehicle for facilitating productive exchanges.

*Discussion:*

The possibility of setting up human rights machinery on a regional level generated a high level of positive discussion with many delegations expressing their support for the idea. It was generally agreed that plans in this regard should not be too ambitious and should take into account a number of factors including the geograhical complexity, diversity and vastness of the countries which form the region as well as their different historical background and levels of political stability, economic prosperity and social development. At the same time, similarities should not be ignored and there was a great deal of enthusiasm for the notion that states seek commonality while admitting diversity and difference.

While a number of participantsdelegations advanced specific proposals, the majority appeared to be staisfied with a general expression of willingness to work towards the development of human rights machinery at the regional or sub-regional level. Such a mechanism would not attempt to duplicate the human rights systems which have been set up in other regions of the world. Instead, delegates agreed that human rights could best be promoted through the establishment of a forum for exchange of experiences and information. Such a forum could well prove to be the first step in an on-going process to institutionalise human rights protection at the regional level.

**WORKSHOP TOPIC 5:**
**WORLD CONFERENCE ON HUMAN RIGHTS: REVIEW AND ASSESSMENT OF PROGRESS MADE IN THE FIELD OF HUMAN RIGHTS**

***Objective:***

By resolution 45/155 of December 1990, the General Assembly decided to convene a World Conference on Human Rights which is scheduled to take place in Vienna, Austria, from 14-25 June 1992. The World Conference will provide an opportunity for the international community to review progress in the field of human rights; to identify obstacles to the full realisation of these rights and ways in which these may be overcome; to examine the relationship between development and human rights; to evaluate the effectiveness of United Nations activities and mechanisms and finally, to formulate recommendations for enhancing the effectiveness of the United Nations in the field of human rights.

As part of the preparatory process of the World conference, regional meetings have been organised to take place in Africa, Latin America and Asia. The first two of these meetings have already been convened in Tunisia and Costa Rica respectively. The Regional Meeting for Asia is scheduled for March 1993 in Bangkok. By including the topic of the World Conference on the agenda of the Workshop, it was hoped that the groundwork for this meeting could be laid down and that some preliminary understanding on the concerns and expectations of the Asian states could be reached during the Workshop sessions devoted to this topic.

***Presentations:***

An explanation of the history of the World Conference, its objectives and the preparatory process to date was provided by **Mr Atchebro** of the Centre for Human Rights. In his brief presentation on the topic, **Ambassador Fan** identified the achievements of the United Nations with regard to human rights and highlighted several of the problems facing the UN in this field. He stressed the importance of the preparatory meeting

for Asian States in contributing to a positive achievement of the World Conference. **Mr Shahi** echoed these remarks while emphasising several specific issues which should be addressed at the Conference including the question of development and human rights; the problem of funding of human rights treaty bodies; and the issue of mass violations.

According to **Mr Burdekin**, the World Conference will be a unique forum within which States may discuss various questions surrounding the issues of national human rights institutions and regional human rights arrangements. He emphasised the indivisibility of all rights and urged participants to view the World Conference as an opportunity to identify and attempt to deal with the major human rights problems now facing the world community. Mr Burdekin pointed out that current discussions about reforming the United Nations should not be seperated from the more specific question about the role of the Organisation in promoting and protecting human rights. The fact that human rights is now entering the mainstream of political debate indicates that this is both necessary and possible.

**Ms Mulgan** voiced her support for including national institutions in discussions surrounding the World Conference. She stressed the importance of developing forums of communication between states involved in the establishment or strengthening of national institutions. The United Nations Centre for Human Rights should also be included given its important role in the provision of advisory services and technical assistance in the field of human rights.

*Discussion:*

Several main themes emerged from the discussion period which followed the presentations on this topic. A number of delegations expressed their approval of including, as a principle objective of the Conference, the issue of the relationship between democracy, development and the realisation of all human rights. Specific human rights problems which should, according to a number of participants, be discussed in Vienna included terrorism, poverty and environmental degredation.

A widespread consensus emerged during the discussions that the World Conference will be most useful if it is viewed as an opportunity to discuss, in a non-confrontational way, the ways in which the international community can work together towards universal realisation of human rights and fundamental freedoms. Open, frank dialogue will only be possible if the World Conference is approached in a spirit of cooperation.

One final matter raise by a number of participants concerned the position of the Centre for Human Rights. It was agreed that the Centre will require considerable

strengthening, particularly with respect to resources, if its important role in protection and promotion of human rights is to continue. Particular attention should be paid to enhancing the efficiency and capacity of the Centre with regard to its provision of advisory services and technical assistance in the field of human rights. States attending the World Conference should consider these issues carefully, particularly in view of the importance of developing a coherent strategy for promoting universal acceptance of human rights.

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**CLOSING SESSION**

The closing session was presided over by Mr Wiryono who, in his capacity of Co-Chairman of the Workshop, delivered concluding remarks summing up the achievements of the Workshop and reflecting the principle points of agreement reached between participants. These remarks are reproduced in full at the begining of this report. Mr Wiryono's remarks were followed by statements from several delegations and experts expressing their agreement with the Chairman and their thanks to those involved in the organisation of the Workshop.

# ANNEX 1

**ASIA-PACIFIC WORKSHOP ON HUMAN RIGHTS ISSUES**

**JAKARTA, INDONESIA**
**26-28 JANUARY, 1993**

**PROGRAMME**

**TUESDAY 26 JANUARY 1993**

**MORNING**

| | |
|---|---|
| 7:30 - 8:30 | Registration of participants, distribution of documents |
| 8:45 | Departure from Hotel to the State Palace |
| 10:00 - 12:00 | Opening ceremony (at the Presidential Palace) |

- Introductory address by H.E. Mr. A. Alatas, Minister for Foreign Affairs of the Republic of Indonesia
- Statement of Mr. A. Blanca, United Nations Under-Secretary-General for Human Rights
- Speech by H.E. Mr. Soeharto, President of the Republic of Indonesia

**AFTERNOON**

14:30 - 16:00 <u>Working Session I</u>

Introductory overview of international norms and standards in the field of human rights

< Speakers >
Mr. Pocar, Mr. Shahi
*Discussion*

16:00 - 16:15 Break

16:15 - 17:45 <u>Working Session II</u>

National implementation of international human rights standards

< Speakers >
Mr. Pocar, Mr. Shahi
Mr. Wirajuda
*Discussion*

**WEDNESDAY 27 JANUARY 1993**

**MORNING**

| | |
|---|---|
| 08:30 - 10:30 | Working Session III<br><br>Activities of national institutions for the protection and promotion of human rights<br><br>Issues of jurisdiction and competence: which rights to protect and how ?<br><br>< Speakers ><br>Ms. Mulgan, Mr. Monteiro, Mr. Burdekin<br>*Discussion* |
| 10:30 - 11:00 | Break |
| 11:00 - 13:00 | Working Session IV<br><br>Relations between national institutions and the State: issues of autonomy and independence; relations between national institutions and other partners<br><br>< Speakers ><br>Mr. Burdekin, Mr. Monteiro, Ms. Mulgan<br>*Discussion* |

**AFTERNOON**

| | |
|---|---|
| 15:00 - 16:30 | Working Session V<br><br>What makes an effective national institution for protection and promotion of human rights?<br><br>< Speakers ><br>Mr. Monteiro, Ms. Mulgan, Mr. Burdekin<br>*Discussion* |
| 16:30 - 16:45 | Break |
| 16:45 - 18:15 | Working Session VI<br><br>On the possibility of establishing regional human rights machinery: problems and prospects<br><br>< Speakers ><br>Mr. Pocar, Mr. Fan, Mr. Yamazaki<br>Mr.Lubis<br>*Discussion* |

**THURSDAY 28 JANUARY 1993**

**MORNING**

| | |
|---|---|
| 08:30 - 11:00 | Working Session VII<br><br>Laying the groundwork: ways and means of facilitating inter/intra-regional cooperation in the field of human rights<br><br>< Speakers ><br>Mr. Fan, Mr. Yamazaki<br>*Discussion* |
| 11:00 - 11:30 | Break |
| 11:30 - 13:30 | Working Session VIII<br><br>World Conference on Human Rights: review and assessment of progress made in the field of human rights<br><br>< Speakers ><br>Mr. Fan, Mr. Shahi<br>Mr. Burdekin, Ms. Mulgan<br>UN Centre for Human Rights<br>*Discussion* |

**AFTERNOON**

| | |
|---|---|
| 16:00 - 17:00 | Closing of the Workshop |

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# ANNEX 2

## LIST OF EXPERTS

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Philippines

**Ms. Margaret Mulgan**
Human Rights Commissioner
New Zealand

**Mr. Fausto Pocar**
Chairman, Human Rights Committee; Vice-President,
University of Milan (Italy)
Italy

**Mr Agha Shahi**
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Elimination of Racial Discrimination
University Professor, Islamabad
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**Mr. Hassan Wirayuda**
Minister Counsellor
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**Prof. Koji Yamazaki**
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# ANNEX 3

# LIST OF PARTICIPANTS

## CO-CHAIRMEN

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Under-Secretary-General for Human Rights
United Nations Office at Geneva

**Mr S. Wiryono**
Director-General for Political Affairs
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14. **REPUBLIC OF KOREA**

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| 9. | Johan B.P. Maramis | ASEAN Inter Parliamentary Organization |
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| 12. | Linda E.A. Lasut | ASEAN Inter Parliamentary Organization |
| 13. | Lukman Harun | Moslem Solidarity Committee |
| 14. | Marzuki Achmad | Indonesian Labour Union |
| 15. | Matheus Nalle | Indonesian Labour Union |
| 16. | Muhamad Soedjono | Indonesian Moslem Assembly |
| 17. | Mulyadi Wahyono | Indonesian Budhism Representative |
| 18. | Nani Yamin | LKBHIUWK |
| 19. | Rambun Tjajo | Indonesian Legal Aid Foundation |
| 20. | Soebijakto Prawirasoebrata | Institution for Indonesian Strategic Studies |
| 21. | Sutrisno Kusumohadi | Indonesian Red Cross |
| 22. | T.K. Adhyatman | Adam Malik Foundation |
| 23. | Tubagus Haryono | Indonesian National Youth Committee |
| 24. | Valentine Kartosiswoyo | KWI |
| 25. | Victor I. Tanja | International Forum Indonesia |

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| 2. | Achdari | Government Official |
| 3. | Achmad Thahir | Department of Foreign Affairs |
| 4. | Adian Silalahi | Department of Foreign Affairs |
| 5. | Adriana Sri Ujianti | Department of Man Power |
| 6. | A. Frans Tumiwa | Indonesian Churches Association |
| 7. | Ahmed Bey Sofwan | Government Official |
| 8. | Agus Tardmizi | Department of Foreign Affairs |
| 9. | Albert Hasibuan | Members of Parliament |
| 10. | Ali Hardi Kiaidemak | Members of Parliament |
| 11. | Aminah | Lawyer |
| 12. | Amin Rianom | Department of Foreign Affairs |
| 13. | Andi Mattalatta | Members of Parliament |
| 14. | Andi M. Asrun | Indonesia University |
| 15. | Andre Hardjana | Scientist |
| 16. | Anggit Hernowo | RCTI, Private Television |
| 17. | Ani S. Santhoso | Secretary, Minister for the Role of Women |
| 18. | Baharudin Lopa | Deparment of Justice |
| 19. | Bambang sulistomo | Krisnadwipayana University |
| 20. | Bambang Sutisna | Government Official |
| 21. | Ben Mang Reng Say | Supreme Advisory Council |
| 22. | Budiman Darmosusanto | Deparment of Foreign Affairs |
| 23. | Dalindra Aman | Department of Foreign Affairs |
| 24. | Djamaris B. Sulaiman | Department of Foreign Affairs |
| 25. | Djonsarei | Department of Home Affairs |
| 26. | Djupri | Member of Parliament |
| 27. | Dwie Riawenny S. | Member of Parliament |
| 28. | Edhimurti Sunoko | Department of Foreign Affairs |
| 29. | Fx. Lopez da Cruz | Supreme Advisory Council |
| 30. | Gatot Tjahyono | Department of Foreign Affairs |
| 31. | H. Awang Farouk | Member of Parliament |
| 32. | Harry Affendie | Ministry of Coordinator for Political and Security Affairs |
| 33. | Hasan Abduljalil | Ministry of Coordinator for Political and Security Affairs |
| 34. | Hasnan Habib | Roving Ambassador |
| 35. | Ishak Latuconsina | Members of Parliament |
| 36. | I.G.N.K. Sumantera | Department of Foreign Affairs |
| 37. | Ildrem Pulungan | Department of Justice |
| 38. | Iris Indra Murti | Members of Parliament |
| 39. | Jubaidi Pribadi | Pelita, Daily News |
| 40. | Marcel Beding | Members of Parliament |
| 41. | Marzuki Darusman | Members of Parliament |
| 42. | Mochtar Kusumaatmadja | Supreme Advisory Council |
| 43. | Moh. Widodo Gondowardojo | Governement Official |
| 44. | M. Nurdin | Governemnt Official |
| 45. | Muradi Yuti, S.H. | Department of Home Affairs |
| 46. | Muladi | Diponegoro University |
| 47. | Nurhadi Purwosaputro | Government Official |

| | | |
|---|---|---|
| 48. | Nursivin | Daily News |
| 49. | Otje Soedioto | Berita Yudha, Daily News |
| 50. | Retno Bintari | KOMPAS, Daily News |
| 51. | Ria R. Aritonang | Members of Parliament |
| 52. | Riris Irawati | ANTARA, Indonesian News Agency |
| 53. | Satjipto Rahardjo | Diponegoro University |
| 54. | Soebrata | Director General, Ministry of Information |
| 55. | Soekadari Honggowongso | Ministry of Coordinator for Political and Security Affairs |
| 56. | Soemitro | Ministry of Coordinator for Political Ad Security Affairs |
| 57. | Soedjati Djiwandono | Suara Karya, Daily News |
| 58. | Syaiful B | |
| 59. | S. Leo Batubara | |
| 60. | Sunaryati H | Government Official, Law of Development Board |
| 61. | Syamsoe Soegito | NDIO |
| 62. | Susanto Soetoyo | Department of Foreign Affairs |
| 63. | Taheri Noor | Members of Parliament |
| 64. | Taufiqulhadi | Media Indonesia, Daily News |
| 65. | Tj. Tarigan Siberu | Members of Parliament |
| 66. | Tati S. Darsoyo | Members of Parliament |
| 67. | Theo Sambuaga | Members of Parliament |
| 68. | Umar Hussein | National Defence and Security Council |
| 69. | Mr. Abdul H Nusantara | Indonesian Legal Foundation |

## UNITED NATIONS CENTRE FOR HUMAN RIGHTS

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Under-Secretary-General for Human Rights
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# ANNEX 4

**OPENING ADDRESS BY MR ANTOINE BLANCA, UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS ON THE OCCASION OF THE OPENING OF THE ASIA-PACIFIC WORKSHOP ON HUMAN RIGHTS ISSUES**

**JAKARTA, INDONESIA**
**26-28 JANUARY 1993**

Your Excellency President Soeharto, Your Excellency Mr. Alatas, Minister of Foreign Affairs., Your Excellencies, Government Officials, Members of the Diplomatic Corps, distinguished participants and speakers, ladies and gentlemen. It is for me a great privilege and a real pleasure to be here in Jakarta at the opening of the Second Asia-Pacific Conference on Human Rights Issues. It is my firm conviction that the holding of this Workshop represents an important milestone in the struggle for univeral recognition of human rights and fundamental freedoms.

This Workshop has been organised by the United Nations Centre for Human Rights in the context of its programme of advisory services and technical assistance. On behalf of the Centre I would like to express my sincere thanks to all those who have worked to make this event possible. To you Mr. President and to the people of Indonesia my most profound thanks and appreciation for the gracious reception, tremendous welcome and warm hospitality.

Your Excellencies, ladies and Gentlemen,

Before addressing the major themes of this Workshop, I take this occassion to speak briefly about the work of the United Nations in the field of human rights. In doing so, I hope to give you a general picture of the various means by which the Organization can assist governments and others committed to advancing human rights at the national, regional and international levels.

One of the first major achievements of the United Nations in pursuit of its human rights mandate, was the adoption of the Universal Declaration of Human Rights by the General Assembly in 1948. The Assembly proclaimed the Declaration to be " a common standard of achievement for all peoples and all nations". It is now more than forty years since the adoption of the Declaration and today there exists a comprehensive body of international principles and standards touching upon almost every conceivable area of human activity.

Of course legislation cannot, of itself, constitute a sound basis for protection. There can be no doubt that without effective structures for monitoring compliance, human rights law will amount to nothing more than grand rhetoric. The

principles and standards contained in the various human rights instruments have been fortified by the establishment of a complex network of implementation machinery. This network includes the Commission on Human Rights and the various human rights committees set up under the major international instruments. The United Nations is fully committed to strengthening and enhancing this machinery. Nevertheless, we cannot undertake such a task alone. A genuine commitment on the part of governments to participate fully in the implementation process is a prerequisite for its effective operation. In addition, it should be recognized that international implementation must be complemented by national application of those human rights standards which have been agreed upon by the world community. These are crucial issues and deserve the careful attention of all those present over the next few days.

Mr. President, ladies and gentlemen,

There is another element to our work: - the difficult but essential task of attempting to prevent violations before they occur. Information and education are perhaps our most valuable tools in this respect. All groups and all peoples must be informed of the rights to which they are entitled and of the mechanisms which exist to enforce these rights. Those who are ignorant of their human rights will not, indeed cannot, exercise these rights.

A comprehensive approach to human rights education demands that particular attention be given to those groups which are in a unique position to affect the human rights of others. While retaining its commitment to informing the general public about human rights, the Centre for Human Rights places great emphasis on specialist education. We are currently involved in a large number of training activities and programmes for police, teachers, members of the judiciary, parliamentarians and government officials.

The Centre for Human Rights also provides other forms of assistance to governments who wish to strengthen their national institutions and infrastructures for the purpose of improving protection and promotion on human rights. Over the years we have developed and refined a wide range of mechanisms for achieving this goal. An extensive fellowship programme is conducted each year, enabling professionals working in key areas to gain first hand experience of the international human rights system. I have already mentioned training courses which are held at both the national and the regional level and which are designed to equip specialized groups with the knowledge required to ensure that human rights are protected and promoted. These courses will soon be supplemented by a series of training manuals designed to ensure that the education process continues after formal instruction is completed.

Other vehicles for education include seminars and workshops such as the one being opened today. These gatherings

provide an excellent opportunity for an exchange of views on a wide range of human rights problems and possible solutions. Over 70 regional and international seminars have been organized under the Advisory Services and Technical Assistance Programme since its inception - bringing together state officials and representatives of various governmental and non-governmental organizations in order to consider issues as diverse as apartheid, migrant workers and traditional practices affecting the health of women and children.

The Centre also provides the advisory services of experts to governments in a number of important areas including election procedure, legislative and constitutional drafting and the development of effective and accesible legal systems. Such assistance is becoming increasingly significant in this era of change and transition.

Officials of the Centre for Human Rights are here to answer any questions you may have about the programmes I have mentioned. I encourage each of the governments represented here to examine your own needs and expertise in this area and to work with the Centre in its efforts to develop practical and effective education and training programmes.

A voluntary fund for advisory services and technical assistance in the field of human rights provides additional financial support for practical works directed towards the implementation of international human rights instruments developed by the United Nations and other intergovernmental organizations. Of course, because of the fact that requests for assistance are growing in both number and complexity, the Centre does not have the resources to meet all of these requests and therefore we need the active support of member states. Without such support, the Centre's efforts in this regard will remain inadequate.

It would be seriously remiss of me to speak of the work of the United Nations in the field of human rights without making mention of the various non-governmental organizations which have been established to protect and promote human rights and fundamental freedoms. These organizations have played a seminal role in the history of the United Nations. Their faith and commitment helped to give shape to the Charter and they have, over the years, consistently provided stimulus and inspiration for both the planning and implementation of United Nations programmes and activities,. Non-governmental organizations, by their very nature, have a freedom of expression, a flexibility of action and a liberty of movement which enable them to complement our role in the protection and promotion of human rights. They deserve our support and encouragement. I welcome their presence here today. I welcome in particular the dynamism and commitment of Indonesian non-governmental organizations active in the field of human rights, and assure them that we are fully aware of the national human rights situation. The United Nations is committed to working towards resolving these issues in close

consultation with the Indonesian authorities.

Mr. President, ladies and gentlemen.

I now wish to move to the specifics of our task at hand. As I explained at the beginning of my address, this event has been organized under the United Nations Programme of Advisory Services and Technical Assistance. It has been convened in order to facilitate discussion on several issues which are widely considered to be crucial to promotion of human rights and fundamental freedoms. I would like to briefly comment on each of these.

Mention has already been made of the importance of dealing with human rights issues before they give rise to violations. In many instances, this preventive approach requires recognition of the crucial role played by national governments in the realization of human rights. Human rights involve relationships among individuals and between individuals and the state. Therefore, the practical task of protecting and promoting human rights is one for which each state must inevitably be responsible. Rights can be best protected at the national level through adequate legislation, an independent judiciary, the enactment and enforcement of individual safeguards and remedies and the establishment of democratic structures. In recognition of these important truths, this Workshop will be addressing, in some detail, issues concerning the creation and development of national institutions for protection and promotion of human rights.

Official human rights institutions have been set up by a large number of countries in recent years. Many nations, including several in the Asia-Pacific region are now taking the first steps towards establishing such bodies. This trend is a positive one - a clear illustration of the willingness of certain States to guarantee real and effective protection of the human rights of their citizens. Constructive dialogue which leads to the strengthening of such institutions can only enhance the effectiveness of the international system for protection and promotion of human rights.

Both national and international human rights mechanisms are in a position to benefit from the collaboration and support which can be provided by regional infrastructures and it is with such regional arrangements that the second major theme of this workshop is concerned. Asia-Pacific is currently the only United Nations-defined region without a specific human rights treaty and without some form of region-wide human rights mechanism. The absence of such arrangements has been raised in a number of UN bodies including the General Assembly and the Commission on Human Rights. It is hoped that this gathering will prove an appropriate forum for the Asia-Pacific nations to identify ways in which obstacles to the establishment of a regional system for protection and promotion of human rights could be overcome.

The third and final major theme of this gathering concerns the World Conference for Human Rights which is scheduled to take place in Vienna in June of this year. I do not need to remind you of the importance of this event, It is twenty-five years since the international community convened to discuss human rights at this level. The world we are living in today is now a different place - one frought with new, formidable dangers and promising new exciting possibilities. The objectives of the World conference are:

- to review and assess progress made in the field of human rights since the adoption of the Univeral Declaration in 1948,

- to identify obstacles and ways in which they may be overcome;

- to examine the link between development and the enjoyment of economic, social, cultural, civil and political rights;

- to examine ways to improve the implementation of human rights standards and instruments;

- to evaluate the efeectiveness of United Nations methods and mechanisms;

- to recommend ways to ensure adequate financial and other resources for UN human rights activities

This event is our chance to take stock of what has been achieved thus far. It is a chance for the international community to engage in constructive dialogue about the future of our global society. It is a chance to make a difference. The political importance of the Asia-Pacific region is beyond dispute and the countries represented here today are, collectively, in a unique position to affect the outcome of the World Conference. I urge you to think carefully, to discharge this responsiblity wisely and in doing so, to demonstrate to the international community, the commitment and leadership of which you are so capable.

Mr. President, ladies and gentlemen,

It would be both foolish and short-sighted of us to close our eyes to the fact that human rights violations are occuring with frightening regularity. Indeed, not a day passes without reports reaching us in Geneva of torture, of disappearances, of summary arrests and executions, of killing of unarmed demonstrators, of gross mistreatment of ethnic groups. Vulnerable populations including migrant workers, refugees, indigenous peoples and members of cultural and religious minorities are increasingly the object of violent attack.

However, while such events remain a source of serious concern to us all, some other political developments have

become a source of hope. There is now widespread recognition of the fact that human rights are the very substance of life, the foundation of peace and security as well as of economic prosperity at both the national and the international levels. In all corners of the earth we are witnessing unprecedented assertions of entitlement to fundamental human rights. These calls cannot be ignored. Today, perhaps more so than at any time in the past, the world community is in a position to significantly strengthen the international human rights system. Together we must ensure that this opportunity to effect real and lasting change is not wasted.

As Under-Secretary-General for Human Rights, let me take this opportunity to personally assure each of you of my commitment to the human rights work of the governments and organizations represented here and to confirm the United Nations' eagerness to cooperate with you for the fulfillment of our common objectives. It is my sincere hope that the presentations and discussions of the next few days will provide a solid foundation upon which future efforts to promote human rights in the Asia-Pacific region will be built. A human rights meeting such as this one can only be viewed as productive and useful if it results in an improvement in the everyday human rights of the people.

Finally, allow me to express my thanks to the distinguished expert speakers who, despite busy schedules, have agreed to share with us their knowledge and experience. I also thank the representatives of governments from the Asia-Pacific region who are present here as well as the representatives of UN bodies and agencies and non-governmental organisations active in the field of human rights.

Mr. President, ladies and gentlemen,

Once again, I welcome you to the Asia-Pacific Workshop on Human Rights Issues. I urge you participate actively, to discuss frankly and to take full advantage of the knowledge and expertise which is gathered here. By doing so, you will be going a long way towards ensuring the success of this important endeavour.

Thank you for your attention.

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Regional Meeting for Asia
Bangkok, 29 March-2 April 1993
Agenda item 8

ADOPTION OF THE REPORT OF THE REGIONAL MEETING

Recommendations on the World Conference and its preparation submitted by the Coalition for Peace and Development, a non-governmental organization without consultative status with the Economic and Social Council, on behalf of all NGO participants to the Asia-Pacific NGO Forum, Bangkok, 26-28 April 1993

BKK.93-032
GE.93-12637

**SUMMARY OF BANGKOK NGO DECLARATION**
Joint Statement of Several Human Rights and Development NGOs

Presented

at the Regional Meeting for the Asia-Pacific
in preparation for the U.N. World Conference on Human Rights
Bangkok, Thailand
1993 March 29 Monday

I. Introduction

On the eve of the Preparatory Meeting of Asian Governments, some 240 representatives of more than 110 non-governmental organizations (NGOs) from about 26 countries across the Asia-Pacific region have put forward a detailed human rights agenda for immediate implementation.

The Bangkok NGO Declaration sets out the human rights challenges facing our region and recommendations designed to meet them.

The representatives in this landmark document leave no doubt as to what is expected of governments and the determination of human rights and development NGOs to have those expectations met.

II. Key Challenges

The Bangkok NGO Declaration has put stress on the following:

There is emerging a new understanding of universalism encompassing the richness and wisdom of Asia-Pacific cultures. As human rights are of universal concern and are universal in value, the advocacy of human rights cannot be considered to be an encroachment upon national sovereignty.

We affirm our commitment to the principle of indivisibility and interdependence of human rights, be they economic, social, and cultural, or civil and political rights. There must be a holistic and integrated approach to human rights. One set of rights cannot be used to bargain for another.

The issue of women's rights has not been sufficiently visible. Women's rights

are human rights. Crimes against women are crimes against humanity. The failure of governments to prosecute those responsible for such crimes implies complicity.

We are entitled to join hands in solidarity to protect human rights worldwide. International solidarity transcends the national order to refute claims of state sovereignty and non-interference in the internal affairs of a state.

We emphasize the need for balanced and sustainable development, bearing in mind maximisation of people's development; integrated approaches on civil, political, economic, social, and cultural rights; equity and social justice; income distribution and fair resource allocation. There is an urgent call to democratise the development processes at both the national and international levels so as to ensure a harmonious relationship between humanity and the natural environment, and to create processes to enhance the empowerment of women and gender equality. The thrust is to promote human and humane development.

Democracy is a way of life. It pervades all aspects of human life: in the home, in the workplace, in the local community, and beyond. Democracy must be fostered and guaranteed in all countries.

We express our deep concern over the increasing militarization throught the region and the diversion of resources. The quest for peace and human rights is intertwined with the need to demilitarize.

We affirm that all peoples have the right of self-determination. By virtue of that right, they freely determine their political status, and freely pursue their economic, social and cultural development. The right of peoples to self-determination must, therefore, be observed by all governments.

The practice of torture, and other inhuman, degrading, or cruel treatment and punishment in the Asia-Pacific region gives rise to increasing concern. These practices must be abolished.

The pretext for constraining the channels of freedom of expression is often internal or national security and law and order. This is a façade for authoritarianism and for the suppression of democratic aspirations and institutions.

If we wish to promote democracy and respect for human rights, we must develop comprehensive human rights education and training in both governmental and non-governmental programmes, in and out-of-school.

The Asia-Pacific region is home to many indigenous peoples. A basic issue among the indigenous peoples is the fact that many are neither recognized as indigenous nor as peoples by governments and as such are denied the right to self-determination.

Implementation of the rights of the children to survival, protection, development and participation as embodied in the U.N. Convention on the Rights of the Child must be a paramount concern of every State, regardless of considerations of national capacity and security.

Too often, peasants and workers endure the worst cases of human rights abuses in the region.

The human rights of internally displaced persons and refugees as a direct result of militarization and armed conflict are violated in the name of restrictive national policies.

We emphasize that states are bound to respect all human rights in their

under all circumstances.

As human rights activists and development workers voice the interests of the people and work for their advancement, it is imperative that they be permitted to work freely; their right to participate in community life and to enjoy the totality of human rights must be respected.

We affirm the need for the independence of the judiciary and call for judicial responsibility to render justice more accessible to the people.

III. Key Recommendations

A. International Human Rights Laws

Agreed on the urgent need to address women's rights as human rights as one of the principal issues with a determination to see effective protection for the rights of indigenous peoples, children, peasants, workers, Dalits (the untouchables), the disabled, and all other marginalized groups, the meeting is putting to Governments of the Asia-Pacific region a number of specific recommendations.

1. Governments of the region must accede without further delay to the principal United Nations Covenants, Conventions, Protocols, Rules, Codes of Conduct, and other human rights instruments.

2. Governments of the region must without further delay withdraw reservations on those human rights instruments to which they are High Contracting Parties, including the Convention on the Elimination of Discrimination Against Women (CEDAW).

3. These international instruments must be given force not only in domestic law but more importantly in practice.

B. U.N. Mechanisms

In addition, the representatives of NGOs are putting forward specific recommendations aimed at strengthening the capacity of the United Nations to promote and protect human rights, including:

1. The establishment within the U.N. of a Special Commissioner for Human Rights as a new high-level authority to bring a more effective and rapid response, coherence, and coordination of the United Nations for the protection of human rights;

2. Improvement in the operation of existing treaty monitoring bodies and mechanisms; and,

3. Support for the establishment of effective regional human rights instruments and mechanisms subject to explicit guarantees of its independence and effectiveness and public access, including by NGOs.

# BANGKOK NGO DECLARATION ON HUMAN RIGHTS

27 MARCH 1993

## Introduction

Some 240 participants from 110 non-governmental organisations (NGOs) concerned with issues of human rights and democratic development from the Asia-Pacific region - representing women, children, indigenous peoples, workers, community development and other concerns, met in Bangkok from 24- 28 March 1993 to review the current human rights situation in the region and to formulate strategies for the future promotion and protection of human rights.

This gathering was motivated by the need to offer, in a spirit of international solidarity, ideas and suggestions in the lead-up to the Asian inter-governmental conference on human rights (Bangkok, 29 March - 2 April 1993), the World Conference on Human Rights (Vienna, June 1993), and beyond.

## Challenges

The participants identified the following essential challenges:

1. **Universality**. We can learn from different cultures in a pluralistic perspective and draw lessons from the humanity of these cultures to deepen respect for human rights. There is emerging a new understanding of universalism encompassing the richness and wisdom of Asia-Pacific cultures.

Universal human rights standards are rooted in many cultures. We affirm the basis of universality of human rights which afford protection to all of humanity, including special groups such as women, children, minorities and indigenous peoples, workers , refugees and displaced persons, the disabled and the elderly. While advocating cultural pluralism, those cultural practices which derogate from universally accepted human rights, including women's rights, must not be tolerated.

**As human rights are of universal concern and are universal in value, the advocacy of human rights cannot be considered to be an encroachment upon national sovereignty.**

2. **Indivisibility**. We affirm our commitment to the principle of indivisibility and interdependence of human rights, be they civil, political, economic, social or cultural rights. The protection of human rights concerns both individuals and collectivities. The enjoyment of human rights implies a degree of social responsibility to the community.

Violations of civil and political rights are perpetrated every day. These include the stifling of self- determination, military occupation, killings, torture, political repression, and suppression of freedom of expression and other freedoms. By contrast, poverty and the lack of basic necessities constitute key violations of economic, social and cultural rights.

Violations of civil, political and economic rights frequently result from the emphasis on economic development at the expense of human rights. Violations of social and cultural rights are

often the result of political systems which treat human rights as being of secondary importance.

Economic rights involve a fair distribution of resources and income, the right to freedom from hunger and poverty. These can only be protected where people are able to exercise their civil and political rights, for example, the right of workers to organise and form unions to protect their economic rights. Poverty arises from maldevelopment in the face of systemic denial of human rights.

**There must be a holistic and integrated approach to human rights. One set of rights cannot be used to bargain for another.**

3. **Women's Rights as Human Rights**. The issue of women's rights has not been sufficiently visible in the human rights discourse, in human rights institutions and practices. Patriarchy which operates through gender, class, caste and ethnicity, is integral to the problems facing women. Patriarchy is a form of slavery and must be eradicated. Women's rights must be addressed in both the public and private spheres of society, in particular in the family.

To provide women a life with dignity and self- determination, it is important that women have inalienable, equal economic rights (e.g. right to agricultural land, housing and other resources, and property). It is imperative for governments and the United Nations (UN) to guarantee these rights.

Crimes against women, including rape, sexual slavery and trafficking, and domestic violence are rampant. **Crimes against women are crimes against humanity, and the failure of governments to prosecute those responsible for such crimes implies complicity.**

In the Asia-Pacific region, women's rights are violated by increasingly militant assertions of religious and ethnic identity; the fact that these violations often take place through private actors is used by states as a pretext for failing to counter them as transgressions of human rights. In crisis situations - ethnic violence, communal riots, armed conflicts, military occupation and displacement - women's rights are specifically violated.

In the case where countries have acceded to the relevant international instruments on women's rights, many countries have entered too many reservations to exempt themselves from responsibility. This illustrates the lack of political and social will to protect women's rights.

4. **Solidarity**. We are entitled to join hands to protect human rights worldwide. We commit ourselves to international solidarity and to voice the concerns of our brothers and sisters without boundaries and barriers. Discrimination based upon race, gender, political, economic, social, religious or ethnic origin must not be tolerated. **International solidarity transcends the national order to refute claims of state sovereignty and non-interference in the internal affairs of a state.**

5. **Sustainable Development**. No country can attain genuine development if it is not truly free, if it has not been able to successfully liberate itself from foreign domination and control. A major cause of maldevelopment and gross violations of human rights is the dominance and consequence of imperialism in the Asia-Pacific region. A pre-condition to genuine development is the attainment of national liberation and self-determination of the peoples in the region.

We re-emphasise the need for balanced development, bearing in mind maximisation of people's development; integrated approaches on civil, political, economic, social and cultural rights; equity and social justice; income distribution and fair resource allocation. Particular attention must be paid to the needs of different groups including women, children, rural people, the urban poor, minorities and indigenous peoples, refugees and displaced persons, workers,

and others in disadvantaged positions. The natural environment must be protected as part and parcel of human rights.

Various top-down development models have led to maldevelopment. Action against national liberation and the people's right of self-determination against political/military repression are key constraints for the realisation of development. These are compounded by regional peculiarities whereby state boundaries are at times artificial when viewed from the commonalities between peoples across frontiers.

On the one hand, we must restructure the international development framework to respond more directly to the needs of people in our societies and communities - both men and women , including debt relief, reform of the international financial, economic and commercial systems, and greater democratisation of the decision-making process. The role of international aid agencies - multilateral and bilateral - and financial institutions has given rise to a number of human rights violations; they must be held accountable for the human rights violations caused by their policies and deeds.

International economic forces have great impact on human rights. The divide between North and South in terms of global equity and resource base, compounded by elitism, perpetuates social and economic disparities. The shift to a market economy has led to various human rights violations linked with development. Market rights do not mean human rights. "One dollar, one vote" does not mean democracy. Freedom to exploit does not deliver economic rights to the poor.

On the other hand, reform is also required at the national level. Maldevelopment leads to increasing poverty, income disparities, dispossession and deprivation, including land and resource holdings, environmental degradation, and over- emphasis on macro-economic development without sufficient enhancement of human development, freedoms and dignity, including dignity of men and women.

**There is an urgent call to democratise the development process at both the national and international levels so as to ensure a harmonious relationship between humanity and the natural environment, and to create processes to enhance the empowerment of women and gender equality. The thrust is to promote human and humane development.**

6. **Democracy**. Democracy is more than a legalistic or formal process. Democracy is more than the ritual casting of a ballot at one party or multi-party elections. True democracy involves participatory democracy by the people at all levels so that the people have a voice in the discussions by which they are governed.

It must be realised in the form of people's empowerment and participation at the grassroots and other levels with responsive and accountable processes and institutions at both the local and national levels. It demands good governance, freedom from corruption, and accountability of state and other authorities to the people. It involves the protection and participation of those groups which are not in the majority, namely minorities and disempowered groups. It is intertwined with the issue of land and social justice for rural people and other disadvantaged groups.

**Democracy is a a way of life; it pervades all aspects of human life - in the home, in the workplace, in the local community, and beyond. It must be fostered and guaranteed in all countries.**

7. **Militarisation**. We express deep concern over the increasing militarisation throughout the region and the diversion of resources for this purpose. Militarisation has led to the destruction of

civil society, undermined the right of self- determination, and denied the people the right to liberate themselves and their freedom from fear. At times, militarisation has taken the guise of civilian groups, such as vigilantes.

It has particularly harmed indigenous peoples and has resulted in forced migration. It is interrelated with violence against women, such as sexual slavery , rape and other crimes committed in armed conflicts. It has particularly harmed the children. They suffer from physical health problems, emotional disorders, and social maladjustments due to traumatic events such as arrest and torture, evacuation, massacre, disappearance, and other forms of human rights violations.

Militarisation is closely linked with religious fundamentalism and ethnic discord, including ethnic cleansing fanned by certain governments.

Militarisation of smaller, less militaristic states is often abetted by superpowers and regional powers. Profiteering from the sale of weapons of mass destruction has been a prime cause of economic growth in developed countries and maldevelopment in developing countries. It is aggravated by the proliferation of nuclear weapons and energy, and environmental damage due to toxic wastes.

**The quest for peace and human rights is intertwined with the need to demilitarise.**

8. **Self-determination**. The right of self- determination of peoples is well-established in international human rights instruments and international law. The root cuase of most internal conflicts can be traced back to this fundamental human right.

**We affirm that all peoples have the right to self- determination. By virtue of that right, they freely determine their political status, and freely pursue their economic, social and cultural development. The right of peoples to self- determination must, therefore, be observed by all governments.**

It is understood also that self-determination does not necessarily imply secession or independence. Self-determination can mean independence, free association, integration with an independent state or other constitutional arrangement arrived at through popular consultation and consent.

9. **Torture**. The existence of torture and inhuman and degrading treatment in the Asia-Pacific region gives rise to increasing concern. **These practices must be eradicated.**

In many countries, suspects are tortured by law enforcement personnel for extracting "confessions". This inhuman practice is officially encouraged by some authorities as a cheap and convenient method of crime control. These so-called "confessions" are used as "evidence" in court cases.

The action needed to counter such practices needs to be both preventive and curative. The latter implies prosecution of those responsible, as well as rehabilitation assistance for torture victims.

10. **Freedom of expression**. This freedom is constrained in many Asia-Pacific countries. It is necessarily interrelated with the call for civil and political rights, and democracy.

In several countries, there are no independent media. People cannot express themselves without fear. Many people are persecuted, jailed, and even killed because they speak out their thoughts. **The pretext for constraining these channels of expression is often national security and law and order; this is a facade for authoritarianism and for the suppression of**

democratic aspirations.

11. Human rights education and training. Human rights education and training have so far not been incorporated sufficiently into both formal and non-formal education. Illiterary remains widespread.

School curriculum tends to favour the ruling elites. Not only are millions of people unaware of their rights, but also receive no encouragement or assistance in asserting their rights. Human rights education and training have both preventive and curative impact - they can empower people to prevent problems from arising by nurturing respect for other people's rights, and vice versa, as well as to inform people of the possibilities of redress.

**If we wish to promote democracy and respect for human rights, we must develop comprehensive human rights education and training in both governmental and non-governmental programmes, in and out-of-school.**

12. Indigenous Peoples. The Asia-Pacific region is home to many indigenous peoples. **A basic issue among these indigenous peoples is the fact that many are not recognised as indigenous by governments and as such are denied the right to self-determination.**

They are denied their specific cultural identity and entitlement to protection under relevant international human rights instruments. They are victims of ethnocide and genocide perpetrated by certain governments - whether from the North, the South or together , international financial institutions and transnational corporations. International legal instruments presently available are weak in ensuring collective human rights protection.

In many parts of the region, their right to land and other rights are not respected. Among the consequences are the expropriation and despoilation of their lands, armed conflicts and displacement as refugees. This has been accompanied by persecution and suppression by force. On another front, tourism has at times led to the degradation of indigenous lifestyles through commercial exploitation.

13. Children. A variety of abuses and exploitation of children arise in the region. These include child labour, children in bondage and sexual slavery, child prostitution, sale and trafficking of children, children in armed conflict situations, children in prison, children in poverty situations and other deprivations, and children abused in families compounded by family break-up and breakdown. Basic needs, such as physical and mental health, nutrition, education, shelter, and participation are often unsatisfied. The advent of AIDS has increased the plight of children; discrimination is increasing both against children with AIDS and orphans of AIDS affected families.

Children's rights are endangered in a wide variety of situations. At a very early age, they are exposed to violence in many forms by governments - poverty, malnutrition, disease, and lack of education which stultify their growth and deprive them of their childhood.

The scenario is much linked with discrimination against the girl child, militarisation, and the distorted development process. Although many countries have now acceded to the International Convention on the Rights of the Child, implementation remains weak, with much lip-service rather than effective action to protect children and to assist their families.

**Implementation of the rights of children to survival, protection, development and participation as embodied in the International Convention on the Rights of the Child must be a paramount concern of every state regardless of considerations of national capacity and security.**

14. **Workers**. Workers of the Asia-Pacific region do not enjoy acceptable standards of human rights. **Too often it is workers and trade union leaders who endure the worst cases of human rights abuses in the region.** The right of freedom of association and the right to organise trade unions are very restricted in several countries.

In this setting, human rights that are taken for granted in the civil society are ignored within the factory and the workplace. The human rights of workers such as women, migrants, bonded labourers, children and youths, and those in the informal/unorganised sector are in an even more critical situation.

The economic rights of workers, especially their access to an adequate standard of living, is often neglected in the region. Transnational corporations and agencies such as the International Monetary Fund and the World Bank at times work to undermine this right in the name of economic freedom. Many abuses of worker rights in this region come from the same countries of the North which preach human rights to the South.

15. **Refugees and Displaced Persons**. The problem of refugees and displaced persons is widespread and growing in the region; it is becoming a permanent phenomenon. It is intermingled with political repression, armed conflicts, ethnic discord, and other factors. Economic factors also push people to move in search of a livelihood elsewhere.

Inadequate attention is paid to their plight. Their position is compounded by the lack of effective national and international machinery to ensure their protection and assistance.

The safety of refugees and displaced persons is often jeopardised by restrictive state policies and discrimination. The basic right of refugees not to be pushed back to the frontiers of dangers is violated on many occasions. The procedures established to determine refugee status are often defective, and voluntary repatriation to the country of origin is not always guaranteed. **The human rights of refugees and displaced persons, including freedom of expression, are violated in the name of restrictive national policies.**

Few countries have acceded to the relevant refugee instruments. This displays a reticence to recognise international human rights standards and to render the situation more transparent internationally.

16. **Derogations**. Several countries seek to constrain the enjoyment of human rights by means of derogations. In cases of increasing militarisation, military occupation and rule - at times in the guise of civilian governments, the space for civil society is becoming narrowed with negative impact for human rights.

We re-emphasise that states must not derogate from human rights standards for reasons of national security, law and order, or the equivalent. **We reiterate that states are bound to respect human rights in their totality in all circumstances.**

17. **Human Rights Activists/Defenders**. Increasing restrictions are being imposed on the work of human rights activists/defenders - peoples from all walks of life involved with human rights - and social movements in the region, including the operations of NGOs. Often they are intimidated, harassed, and even murdered. In some countries, NGOs are not even allowed to exist.

**As these groups voice the interests of the people and work for their advancement, it is imperative that they be permitted to work freely; their right to participate in community life and to enjoy the totality of human rights must be respected.**

18. **Judicial independence and responsibility**. In many societies, the independence of the

judiciary and the administration of justice are being jeopardised by authoritarian elements. This is compounded by various national laws that conflict with human rights standards, particularly discrimination and inequality, and the complicity of certain judges in perpetuating authoritarian regimes.

The legal structure is also distant from many communities. There is a key question concerning access by people to the courts system. This is intertwined with the issue of legal aid, assistance and dissemination of legal knowledge.

**We re-affirm the need for judicial independence and call for judicial responsibility to render justice more accessible to the people.**

## Issues

The participants highlighted the following concerns as issues requiring urgent and effective action, both in terms of prevention and remedies:

* increasing lawlessness on the part of governmental authorities;

* governmental action undermining the universality and indivisibility of human rights;

* failure to enhance human freedoms and dignity, including the dignity of men and women;

* threats to the right to self-determination;

* non-recognition of and continuing violations of women's rights due to patriarchy, including economic rights, and inadequacy of processes to enhance the empowerment of women and gender equality;

* breaches of children's rights due to economic needs, socio-cultural constraints, criminality, consumerism, discrimination and militarisation;

* increasing environmental degradation and depletion of natural resources;

* proliferation of armed conflicts, enmeshed in ethnic discord, with threats to civilians;

* political repression by means of killings, disappearances, and torture, and political prisoners, and suppression of civil and political rights, including self- determination, freedom of expression and assembly;

* violation of the right to health, and underdeveloped health care systems characterised by maldistribution and inaccessibility of resources to the poor majority;

* denial of health services to survivors of human rights violations;

* attacks on the rights of workers;

* insecurity of migrant workers;

* threats to agrarian and rural communities;

* harassment of persons, including health and church workers, carrying out their humanitarian functions;

* widespread sexual exploitation;

* religious intolerance mixed with extremism, and other forms of discrimination on the basis of religion;

* lack of legal and other redress for human rights violations;

* impunity of those who commit human rights violations;

* numerous constraints imposed upon the mass media;

* lack of access to information to empower people to protect their human rights;

* discrimination and national oppression of minorities and indigenous peoples, and inadequate protection of tribal peoples;

* discrimination and violence perpetrated against the "untouchables" and the process of untouchability;

* increasing number of and threats to refugees and displaced persons, particularly through lack of fair and effective refugee screening procedures, violations of their human rights, and menace to their right to seek asylum and safety;

* insufficient protection of the disabled, including both physical and mental dimensions;

* lack of services and assistance for the elderly;

* escalation of AIDS and related discrimation;

* spread of drugs and related exploitation;

* low levels of education, in particular unavailability of essential human rights information, lack of awareness and skills;

* paucity of accession to international human rights instruments ( as well as too many "reservations" upon accession) and failure to implement them at the national and local levels;

* restricted access by individuals and NGOs to the international human rights system;

* lack of regional and national inter-governmental mechanisms to protect human rights in an independent and accessible manner.

## RECOMMENDATIONS FOR ACTIONS BY GOVERNMENTS OF THE ASIA-PACIFIC REGION

### GENERAL RECOMMENDATIONS

We, representatives of Asian-Pacific NGOs, call on Asia-Pacific governments:

i) to promote and protect the **universality and indivisibility** of human rights by :
- recognising and guaranteeing the interrelationship between human rights, development and democracy as propounded by this NGO Declaration;
- guaranteeing the rights of collectivities, such as minorities, indigenous peoples and the unorganised sectors of labour as well as individual rights.
- eliminating the root causes of human rights violations - civil, political, economic, social and cultural.

ii) to **review and reform laws, policies and practices** which are detrimental to the full realisation of the civil, political, economic, social and cultural rights of their people

iii) to ensure that **development strategies are sustainable**, equitable, people-based and in a balance with the natural environment, with the aim of assuring equity and enhancing the freedoms and the dignity of all women and men.

iv) to **counter socio-cultural practices** and extremism which constrain human rights, particular women's rights, and in particular to reform laws, policies and religious and cultural practices that tend to deny women's independent existence and to take measures, such as community mobilisation, mass education and long-term development, to initiate and and enhance the process of empowerment and equality.

v) to **lift constraints on political rights** imposed by national security and law and order, by repealing repressive laws, ending arbitrary arrests, and releasing all political prisoners before the UN World Conference on Human Rights, and liberalising the political system so as to democratize the decision-making process, guarantee people's participation at all levels of government, and abide by good governance.

vi) to **address the root causes of armed conflicts** which are foreign domination, widespread landlessness and powerlessness among the people, and the collaboration of ruling elites with foreign powers and their instrumentalities;

vii) to **reduce arms purchases and re-allocate arms expenditure** to development needs, the improvement of preventive mechanisms and the promotion of human rights promotion and

protection,and to initiate and pursue consultative processes, social services and peaceful settlement of disputes, bearing in the mind the special concerns of women, children, minorities indigenous peoples, workers in the organised and unorganised sectors, refugees and displaced persons, peasants, and other disadvantaged groups.

viii) to **respect the work of human rights activists/defenders** and social and legal movements, including non-government organisations, to cease harassment, intimidation and other malpractices against this sector and to facilitate, rather than obstruct, the operations of these catalysts of social change.

ix) to **guarantee the independence of the judiciary**, while nurturing a commitment to responsibility to the people, providing adequate remedies for human rights violations through judicial and other channels, including the availability of legal aid and assistance, and to counter the impunity of violators by effective legal and other measures.

x) to **ensure that human rights have the first call on state resources**, by reducing arms purchases and diverting the funds from militarisation to human rights promotion and protection, and by reallocating from other sources;

xi) to promote **comprehensive human rights education and training**, including an increase in the provision of information, the development of awareness and of skills. Participatory learning methods will enrich the process and contribute to the promotion and protection of universal human rights standards by utilizing the cultural wealth of the region.

SPECIFIC RECOMMENDATIONS

1. We call on governments in the Asia-Pacific region :

i) to **accede to and effectively implement international human rights instruments**, and to protect international human rights standards contained in the :

- International Covenant on Civil and Political Rights (ICCPR);
- International Covenant on Economic, Cultural and Social Rights;
- Optional Protocols I and II to the ICCPR;
- Convention Against Torture;
- Convention Against the Elimination of All Discrimination Against Women (CEDAW);
- Convention on the Elimination of all forms of Racial Discrimination;
- Convention on the Rights of the Child;
- Convention on the Status of Refugees;
- Convention on the Non Applicability of Statutory Limitations to War Crimes and Crimes against Humanity
- ILO Conventions;
- UN Declaration on the Rights of Minorities;

and **as a matter of priority** to protect the rights of women by ratifying CEDAW, of **indigenous people by ratifying** ILO Convention 169 and of workers by ratifying all other ILO Conventions.

ii) to guarantee the totality of human rights by withdrawing reservations, in particular those applying to CEDAW and the Convention on the Rights of the Child, removing reservations determined to be incompatible, and establishing an expeditious procedure for reviewing the compatibility of reservations;

iii) to support the adoption of the proposed Optional Protocol to the Convention Against Torture, the Draft Declaration on Violence against Women and an Optional Protocol to the Covenant for Economic, Cultural and Social Rights (ICESR) and subsequently to ratify the protocol to the ICESR

iv) to introduce or amend domestic legislation

-to ensure compliance with these international obligations,in particular with the standards of equality and non discrimination, and to resolve conflicts between the customary laws of a group or people and those of the state, in conformity with the universality of human rights according priority to those which conform to the spirit of the Universal Declaration on Human Rights;

- to ensure the protection of the rights of women, children, indigenous peoples, peasants and workers and all marginalised groups;

- to guarantee the freedom of religious organisation and expression;

- to abolish the death penalty.

v) to cease immediately all forms of political repression, including organised sexual violence, torture, enforced or involuntary disappearances, extrajudicial executions and arbitrary detention;

vi) to ensure protection of the rights of all victims of human rights violations, particularly torture victims and prisoners;

vii) to provide the basic needs of political prisoners, torture victims, refugees and displaced persons;

viii) to provide compensation, indemnification and total health services, including rehabilitation to survivors and families of victims of organised violence sponsored and sanctioned by the State, including torture, sexual slavery (including victims of the devadasi (slaves of god) system), forced labour, involuntary disappearances, summary execution, police and military oppression, political repression, unjust detention and internal displacement;

ix) while welcoming any initiative by governments to set up a regional mechanism for the protection and promotion of human rights in the Asia-Pacific region, such measures must be subject to the following conditions:

- if a regional commission is set up, it should be mandated to apply without reservations the International Bill of Human Rights, CEDAW, the Convention against Torture, the Declaration of the Right to Development and other relevant human rights instruments;

- member states of this regional Commission must ratify or accede to the above international instruments prior to their membership;

- the right of individuals and NGOs to petition the regional Commission must be guaranteed;

- such petitions or appeals should not preclude concurrent appeals to the various UN mechanisms for the protection of human rights;

- no member of this regional Commission should hold an official position in Government concurrently, and members should be appointed in consultation with NGOs;

- there should be a regular reporting system by states on their implementation of human rights standards domestically with NGO participation in the drafting of the reports;

- meetings of this regional Commission and its deliberations should be generally open to the public;

- no aspect of government operation and no official should be immune from scrutiny or investigation, including the military and security forces;

- the regional commission should have full investigative powers;

- a separate body should be set up to adjudicate complaints;

- member governments must be required to disseminate information on the regional commission and how it operates.

x) to adopt, following public consultation, **a gender-sensitive national policy on human rights education** and training which provides, among other things, for specific programs designed for government officers and employees, law enforcement officials. There should be programs, both formal and nonformal, on human rights in the curricula of all educational institutions, for which governments should be held primarily responsible, and effective use of the mass media. Particular emphasis should be given to programmes designed specifically for marginalised members of the community. NGOs should be assisted and encouraged to conduct Human Rights Education and training.

xi) to **translate and disseminate materials** relating to human rights instruments and mechanisms into the vernacular languages of the Asia Pacific

ACTION BY THE UNITED NATIONS

INTERNATIONAL MECHANISMS

i) We call upon the United Nations to **undertake a gender analysis of all human rights instruments to remove gender bias and to address gender specific abuses, and to ensure that** such issues are addressed in all reports, documents etc. produced by UN treaty bodies, thematic and country rapporteurs and working groups, independent experts and all bodies entrusted with protecting human rights in all areas that fall within their mandate;

ii) Welcoming the Draft Declaration on Violence Against Women and urging its adoption by the General Assembly, we recommend that the World Conference **recognise women's rights as human rights** and develop more effective **implementation procedures to eliminate violence against women in both the public and private spheres,** which constitutes the gravest form of sexual discrimination, (for example by adding a supplementary article to CEDAW to outlaw the use of biological engineering to determine the sex of the foetus), and urge consideration of the initiative by the Coalition Against the Trafficking of Women in introducing a **Draft Convention Against Sexual Exploitation;**

iii) We reiterate **the importance of the Secretary General in monitoring state compliance** with Article 4 of the International Covenant on Civil and Political Rights which requires that he be notified of derogations during times of national emergencies;

iv) We urge that the **UN Rapporteur on States of Emergency be given adequate powers** to play a more active role in effectively monitoring derogations of human rights by governments during states of emergency;

v) We urge the United Nations World Conference on Human Rights, to adopt a Convention on the Right to Development embodying the existing Declaration, and to move towards the adoption of Declaration on the Rights of Human Rights Defenders.

vi) We recommend a rethinking and review of the existing definitions of human rights, including the definition of torture, the inclusion of rape, forced migration and the destruction of habitats as war crimes and a recognition of the right to be free from sexual exploitation, including sexual harassment, incest, trafficking and prostitution.

vii) We call on the UN to take appropriate steps to eradicate the practice of untouchability, which is a crime against humanity, and discrimination on the basis of caste, religion and other factors by the year 2000, failing which sanctions will be imposed, keeping in view that development projects financed by UNDP and IFIs of the poor are not effected.

viii) We call on the UN to take appropriate steps for the speedy realisation of the decolonisation of indigenous peoples.

EFFECTIVENESS

We call for specific improvements in the United Nations' capacity and to establish new mechanisms to effectively promote and protect human rights:

i) A special UN office, perhaps under the Under-Secretary general, should be set up to consider the issue of self-determination;

ii) by applying sanctions against governments engaged in gross human rights violations;

iii) by ensuring individual access to UN bodies and providing for individual complaints procedures - to this end, a working group should be established in the Commission on the Status of Women to outline procedures for drafting an Optional Protocol establishing individual complaints procedure under CEDAW

iv) by expanding the impact of the treaty monitoring bodies including in the following ways: requiring a clear report on the extent to which a country has fulfilled its obligations and the extent to which it has failed; insisting on the submission of state reports and submission on time; encouraging consultation by states with NGOs and inclusion of NGO reports in State reports (with the NGO's consent); officially allowing for NGOS to submit parallel reports; full public disclosure of the proceedings of each session;

v) by reinforcing the work of existing country and thematic Rapporteurs and Working Groups and by establishing new mandates as required, and enhancing the effectiveness of such mechanisms by: providing for greater investigatorial powers; setting up a system to follow-up on recommendations for implementation by governments; regularisation of on-site visits; more accessibility for victims and their families; improving security for UN delegations, rapporteurs, working group members;

vi) by requiring that serving members of the Sub-Commission on Human Rights not be drawn from government ranks (such as politicians or diplomats) but should be sought from academia, NGOs, the media or other appropriate sectors and allowing for candidates to be nominated by countries other than own;

vii) by establishing a UN Special Commissioner for Human Rights as a new high-level political authority to bring a more effective and rapid response, coherence and coordination in the protection of human rights;

viii) by the formation of a UN Commission on Indigenous Peoples' with a permanent status and with the functions of monitoring, raising consciousness of the public on the situation of indigenous peoples and others;

ix) by improving the operation of the UN Commission on Human Rights through the inclusion of discrimination against indigenous peoples as a permanent item on the agenda; and, by not precluding as a result of using the 1503 procedure, the raising of an issue in other fora;

x) by improving emergency mechanisms through an "early warning device" enabling the UN to respond more effectively before a situation deteriorates into crisis; maximising the use of special envoys by the Secretary General; expanding the powers of the Under-Secretary for Human Rights to enable a response to emergency situations; strengthening Urgent Action procedures;

xi) by establishing a Permanent International Court on Human Rights with compulsory jurisdiction over all cases of human rights violations;

xii) by establishing a Permanent International Criminal Court, to which individuals have direct access, to provide both criminal sanctions and civil remedies against war crimes, crimes against peace and crimes against humanity including gender-specific abuses - in international, internal and armed conflicts.

xiii) by establishing a war crimes tribunal in Asia to adjudicate on military atrocities, including sexual slavery

xiv) by establishing Special Rapporteurs on the rights of indigenous peoples, on gender discrimination and violence, and on children's rights, on the trafficking in women, authorized to receive and report on information from governments, NGOs and inter-governmental institutions, to respond effectively to allegations of violations of human rights and to recommend measures for their prevention. The rapporteur on gender violence should also report to the Commission on the Status of Women.

xv) by sending fact-finding missions to countries in our region where gross violations of indigenous peoples' rights are reported;

xvi) by providing mandatory gender training for UN personnel and independent experts,

xvii) by the integration of a gender perspective programme in all UN advisory services on human rights;

xviii) by allocating at least 5% of the UN budget to human rights work;

xix) by increasing resurces available to UN human rights bodies, such as CEDAW - by extending meeting sessions and providing more support staff- and the UN Voluntary Fund for the Victims of Torture

xx) ensuring periodic evaluations of the effectiveness of UN monitoring, reporting and complaints procedures and its advisory services and training programs in addressing violations of the rights of women, children and indigenous peoples;

HUMAN RIGHTS EDUCATION AND TRAINING

We call upon the UN to

i) declare a "Peoples' Decade for Human Rights Education and Training";

ii) implement mechanisms for the review of Human Rights Education and Training, possibly by the relevant treaty monitoring bodies;

iii) establish an International Fund for Human Rights education and Training activities for states ad NGOs

iv) instruct each UN body to prepare a report on the effectiveness of their initiatives to address women's human rights for the 1995 World Conference on Women;

v) ensure that the rights of indigenous peoples finally gain a place on the formal agenda of the UN Commission on Human Rights.

DEMOCRATISATION

We recommend the democratisation of relevant UN processes in the following ways :

i) by democratization of the Security Council, in particular by abolition of the veto and permanent membership and the transfer of additional responsibilities to the General Assembly; moreover, membership of the Security Council should be denied to any State responsible for war crimes against humanity, such as military sexual slavery, before it accepts its state responsibility.

ii) by establishing mechanisms to ensure that the concerns, experiences and struggles of hitherto marginalised groups, including women, children,indigenous peoples and workers, can be represented in all UN structures and its ongoing activities; in particular by the granting of consultative status, the inclusion of such concerns in the agenda of the regional meeting and the World Conference; and by recognising their representatives to speak at the meetings.

iii) taking into account the absence of an inter-governmental human rights mechanism in the Asia-Pacific region, we call on the UN Commission on Human rights to develop procedures and provide the means to enable NGOs to access the UN system both within Asia and beyond; specifically, we call for the sittings of the Sub-Commission on Human Rights in August every year to be held in rotation in the Latin American, African and Asian-Pacific regions; ECOSOC rules and procedures limiting NGO participation should be waived; the accreditation decisions should always be by majority and may be bysecret ballot;

iv) by recognising, promoting and supporting NGO activities on human rights by making available technical, human and financial resources from the UN;

SPECIALISED AGENCIES

With regard to **UN institutions and their specialised agencies** we call upon the UN, governments of the North and the South to actively monitor, regulate and ensure:

i) the policies of the IMF, World Bank, GATT and other multilateral agencies -and bilateral agencies - to ensure their conformity with UN/ILO standards;

ii) the protection of all workers, trade unions and labour rights groups not officially recognized by their governments, by: strengthening ILO policies relating to workers in the unorganized/informal sector and to the trade union rights of government employees; and addressing the practice of the expulsion or forced migration of workers, especially women, in occupied territories;

iii) the activities of TNCs operating in the Asia-Pacific region so as to ensure compliance with international labour standards.

iv) procedures for the accountability of the UN delegates, personnel and agents for human rights violations, including gender specific abuses.

MILITARISATION

We call on governments :

i) to adopt measures to bring to an immediate end the production, sale, exhibition and advertising of weapons of mass destruction and nuclear weapons, and military exercises of all kinds;

ii) to dismantle all existing weapons of mass destruction and to end the military training of Asia-Pacific defence, military and security personnel by Western countries for combat against their own people;

iii) to re-allocate military budgets to development needs, improved preventive mechanisms, consultative processes, social services and peaceful settlement of disputes;

iv) to disband all paramilitary forces;

v) to take immediate steps to ensure that Asia and the Pacific are not host to foreign bases and are free of nuclear weaponry and power;

vi) to make publicly available information on military expenditure;

vii) with specific reference to the operation of UN peace-keeping forces, emergency response mechanisms and humanitarian assistance, to ensure an effective response to the particular vulnerabilities of women as a group in situations of armed or ethnic conflict; to address the impact on women and children of all measures taken and the effect on the local female population of the discipline and behaviour of male military personnel;

viii) to release all Prisoners of War and civilians detained in contravention of international humanitarian law;

xix) to ensure all citizens have the right to conscientious objection.

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Agenda item 8

ADOPTION OF THE REPORT OF THE REGIONAL MEETING

# Recommendations on the World Conference and its preparation submitted by Amnesty International, a non-governmental organization in consultative status with the Economic and Social Council

GE.93-12029

# amnesty international

# Proposed Standards for National Human Rights Commissions

JANUARY 1993 AI INDEX: IOR 40/01/93

The creation of a national human rights commission can be an important mechanism for strengthening human rights protection but can never replace, nor should it in any way diminish, the safeguards inherent in comprehensive and effective legal structures enforced by an independent, impartial, adequately resourced and accessible judiciary. The creation of such a human rights commission should go hand in hand with a thorough review of existing legal and other institutions in order to make these more effective instruments of human rights protection. These initiatives should be accompanied by a determined government policy aimed at holding the perpetrators of human rights violations fully accountable, thus ensuring that those who violate human rights cannot do so with impunity.

In March 1992 the United Nations Commission on Human Rights endorsed the *Principles relating to the status of national institutions*.[1] These internationally recognized Principles should serve as the basic minimum guidelines for the establishment of national institutions for the promotion and protection of human rights.

Amnesty International would like to recommend the following standards, as essential elements for consideration in the establishment and functioning of national human rights commissions.

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[1] In March 1992 the United Nations Commission on Human Rights adopted by consensus Resolution 1992/54, which reaffirmed the importance of developing effective national institutions for the promotion and protection of human rights, and included the *Principles relating to the status of national institutions*. The text of the Principles is appended to this document.

## Mandate and composition of the Commission

- The Commission should be independent from government and its Charter should reflect this. The Commission should be established by law or, preferably, by Constitutional amendment.

- The Commission should consist of men and women known for their integrity and impartiality of judgment who shall decide matters before them on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences from any quarter or for any reason. Its members should be independent of government, have a proven expertise and competence in the field of protecting and promoting human rights, and should be drawn from a variety of different backgrounds, including relevant professional groups and the non-governmental sector.

- The method of selection of its members should be fair and transparent and should afford all necessary guarantees of independence and broad representation. Commission members should serve in their individual capacity and should be able to serve the Commission effectively. The terms of their appointment, tenure and removal should be clearly specified, laid down in the Charter and should afford the strongest possible guarantees of competence, impartiality and independence.

- The Commission should be mandated to monitor and report on compliance with and implementation of relevant international human rights standards, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the United Nations (UN) Declaration and Convention against Torture, as well as the UN Code of Conduct for Law Enforcement Officials, the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary or Summary Executions.

- The Commission should be mandated to review the effectiveness of existing legislation and or administrative provisions in protecting human rights and should be able to make recommendations for the amendment of such legislation or the introduction of new legislation as necessary. The Commission should also examine bills and proposals for new legislation put forward by the government or parliament to verify its conformity with international human rights standards and to ensure the state's compliance with the above international human rights instruments.

- The scope of the Commission's concerns should be defined in terms of state obligations under international human rights law. The Commission should therefore exclude from its mandate criminal actions by criminal organizations, by political groups which have resorted to arms as a means to achieve their goals, and criminal actions occurring in the context of domestic violence.

- The Commission should have precisely defined powers to investigate on its own initiative situations and cases of reported human rights violations and set clear priorities for its work in accordance with the seriousness of the violations reported to it. Priority should

be given to alleged violations of the right to life and security of the person, and the right not to be tortured (rights from which no derogation can be made by any government under any circumstances); as well as to the right not to be arbitrarily arrested or detained.

- The Commission should be directed to establish effective cooperation with non-governmental organizations with first-hand information about reports of human rights violations.

- The Commission should also have the powers to conduct wide-ranging national inquiries on human rights concerns of fundamental importance to the nation.

- It is recommended that initially the Commission conduct a critical analysis of the factors which have contributed to the persistence of human rights violations within the national territory, including the failure of existing institutions and legal mechanisms to provide adequate human rights protection. Recommendations for legal and institutional reform to halt violations may be proposed on the basis of the findings of the study.

- The Commission should be authorized to investigate the conduct of the security forces throughout the national territory. To do this effectively, the Commission should have adequate facilities to conduct thorough investigations, independent of the security forces, whose conduct it will be called upon to assess.

## Facilities and methodology of the Commission

- The Commission should have all necessary human and material resources to examine, thoroughly, effectively, speedily and throughout the country, the evidence and other case material concerning specific allegations of violations reported to it.

- The Commission should have its own investigative machinery and should have access to expert assistance whenever required to verify alleged violations. It should have adequate facilities to carry out on-the-spot investigations. The Commission should have immediate and unhindered access to all places where detained persons are held or are suspected to be held. Officials should be obliged to cooperate with the Commission's investigations.

- The Commission should have powers to initiate investigations on its own initiative. It should be able to receive communications not only from the complainants themselves but also, if they themselves are unable or prevented from doing so, from lawyers, relatives or others acting on their behalf, including non-governmental groups. Investigations initiated by the Commission should be adequately publicized, especially at the regional and local levels, to enable and encourage witnesses to come forward to testify.

- The Commission should have full and effective powers to compel the attendance of witnesses and the production of documents.

- The Commission should have full and effective powers to protect witnesses, complainants, or others providing evidence to the Commission, including bringing about the suspension or transfer of officials allegedly involved - without prejudice pending completion of

investigations - to other duties where they would have no power over witnesses or complainants. Victims or relatives should have access to all relevant information and documents relating to the investigation and be granted all necessary facilities to present evidence. The Commission should be able to provide financial assistance to witnesses enabling them to travel and be accommodated in order to present their evidence before the Commission.

- The Commission should work in an open way with its hearings generally open to the public. Private hearings should be an exceptional measure and be resorted to only in specific pre-established circumstances. The Commission's methodology and the results of its investigations, together with official reports, including *post mortem* and other expert reports as well as police and court records, should in each case be published in full, in an easily accessible and comprehensible form.

- The Commission should also prepare regular reports documenting all the complaints it has received, together with the action taken in each case, as well as an account of all its other activities for the promotion and protection of human rights. The Commission's reports should be presented periodically to representative national and regional bodies.

- The result of the Commission's investigations should be referred to appropriate judicial bodies without delay. Anyone the Commission alleges to have been responsible for committing human rights violations or for ordering, encouraging or permitting them, should automatically be brought to justice. The government should ensure that any prosecutions for human rights-related offences are brought by authorities which are distinctly independent from the security forces or other bodies allegedly implicated in the human rights violations.

- The Commission should have powers to ensure that superior officers are held accountable for acts committed under their authority and should be mandated to closely follow subsequent legal proceedings in the case, by monitoring trials, or if necessary appearing before the court to make legal submissions to press for appropriate legal action to be taken within a reasonable time.

- The Commission should have powers to ensure effective remedies, including interim measures to protect the life and safety of an individual and free medical treatment where necessary; it should ensure that full and prompt compensation is paid and other measures of redress and rehabilitation are taken in all cases it has taken up in which members of the security forces are found to have perpetrated human rights violations.

- The government should undertake an obligation to respond, within a reasonable time, to the case-specific as well as the more general findings, conclusions and recommendations made by the Commission. The government's response should be made public.

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Agenda item 8

ADOPTION OF THE REPORT OF THE REGIONAL MEETING

Recommendations on the World Conference and its preparation submitted by the International Planned Parenthood Federation (IPPF), a non-governmental organization in consultative status with the Economic and Social Council

"All couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have information and means to do so"[1]

## INTRODUCTION

For the past 25 years there has been official universal acceptance that access to family planning information and services is a basic human right. Although still denied to millions of men and women, this right was endorsed at the International Conference on Human Rights in 1968. It has since been repeatedly restated in international instruments, and is slowly beginning to find expression in national constitutions.

The recognition of reproductive rights is fundamental to the establishment of equal rights for men and women since it underscores the right of women to control and manage their own fertility, thus enabling them to enjoy other human rights, for example, the right to good health.

## IPPF

The International Planned Parenthood Federation (IPPF) is the world's largest voluntary family planning organization, with member Family Planning Associations (FPAs) in over 130 countries. The Federation works to promote and support family planning services internationally and to educate people and governments about the benefits for the whole family of spacing and planning births.

Further, in its Strategic Plan, agreed in October 1992, IPPF and its member associations reiterated IPPF's goal to promote and defend the right of women and men, including young people, to decide freely the number and spacing of their children, and the right to the highest possible level of sexual and reproductive health.

To achieve this aim, IPPF promotes the concept of the planned family and the provision of family planning services, on the widest possible scale, so that people may voluntarily, and through informed choice, adopt and practise appropriate methods of family planning. IPPF is totally opposed to any form of coercion, direct or indirect, in the provision, acceptance or practice of family planning, and part of the work of the Federation is the analyzing, monitoring, and speaking out against any infringements of reproductive rights, which may occur through obstructive or coercive national policies and practices.

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[1] World Population Plan of Action (paragraph 14 (f), agreed at the UN World Population Conference in Bucharest, 1974

## WOMEN'S RIGHTS ARE HUMAN RIGHTS

IPPF actively works for the establishment of equal rights for women to enable them to exercise control over their own reproductive and sexual health choices. The Federation works to ensure that women's rights to family planning, sexual and reproductive health remain a priority in national and international development policies, and that women's right to health are protected against the pressures of imposed demographic goals.

With other organisations, IPPF is urging the International Conference on Human Rights to recognize that "**women's rights are human rights**". Women are subject to certain violations of their rights because they are women, as in the case of rape, domestic violence and reproductive health, and it is important that any violations of their rights should receive the same priority and have access to the same channels of redress as other violations of human rights.

Article 3 of the Universal Declaration of Human Rights affirms the right of the individual to life, liberty and security of the person. Denial of a woman's reproductive rights can endanger her life thereby depriving her of the right to life. As was recognized by the World Conference on Safe Motherhood (1987) half a million women die annually from conditions arising from pregnancy related causes.

IPPF urges the Meeting to recommend that the Conference reaffirm the right of access of both women and men to reproductive health services, including family planning, as well as "the basic human right ... to determine freely and responsibly the number and spacing of their children" as was included in the Proclamation of Teheran (para 16) at the International Conference on Human Rights in 1968. This involves recognizing the need to ensure that these important human rights are universally enjoyed with free and informed consent and access to the widest possible range of services.

IPPF also calls for recognition of the special needs of women in terms of their reproductive rights, which must include right of access to family planning and to other reproductive health services to ensure women's rights to adequate health and well-being. Discrimination against women contributes to their ill-health, and the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) requires member states to eliminate discrimination against women in the exercise of their right to health care, including family planning. IPPF urges the Meeting to recognize the importance of this Convention and to recommend that the same level of implementation is applied to this Convention as is applied to other human rights instruments.

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